NEW MOLD RULES ADOPTED BY SDDC

Added to Claims and Liability Rules and Defense Transportation Regulation

DEFENSE PERSONAL PROPERTY PROGRAM CLAIMS HANDBOOK

STEVEN R. KELLY
EDITOR

3RD EDITION
AUGUST 2014

TABLE OF CONTENTS

TAB A - **THE PERSONNEL CLAIMS ACT** 2

TAB B - **CONGRESSIONAL MANDATE TO PROVIDE FRV COVERAGE FOR ALL DOD SHIPMENTS FOR PERSONAL PROPERTY** 5

TAB C - **GAP STATUTE** 9

TAB D - **RULES ON INCONVENIENCE CLAIMS FROM THE DTR** 12

TAB E - **INFORMATION PAPER ON MOLD** 16

TAB F - **STAGES OF SHIPMENT AT WHICH MOLD ISSUES ARISE** 18

TAB G - **RULES ON MOLD PREVENTION AND REMEDIATION FROM THE DTR** 20

TAB H - **COMPARISON OF THE OLD AND NEW DP3 CLAIMS AND LIABILITY RULES** 25

TAB I - **DP3 CLAIMS AND LIABILITY BUSINESS RULES, DATED 20 MAY 2014** 32

TAB J - **ARTICLE BY STEVEN KELLY & KEVIN SPEALMAN, REF. REPAIRS AND REPAIR ESTIMATES UNDER THE JULY 2013 DP3 CLAIMS & LIABILITY RULES** 66

TAB K - **INFORMATION PAPERS** 70

TAB A

C

Effective: February 10, 1996

United States Code Annotated Currentness
Title 31. Money and Finance (Refs & Annos)
Subtitle III. Financial Management
Chapter 37. Claims (Refs & Annos)
Subchapter III. Claims Against the United States Government (Refs & Annos)

§ 3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section--

(1) "agency" does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) "head of an agency" means--

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) "settle" means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b)(1) The head of an agency may settle and pay not more than $40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.

(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if--

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency--

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than $1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

CREDIT(S)

(Pub.L. 97-258, Sept. 13, 1982, 96 Stat. 973; Pub.L. 97-452, § 1(17), Jan. 12, 1983, 96 Stat. 2474; Pub.L. 100-565, § 1, Oct. 31, 1988, 102 Stat. 2833; Pub.L. 103-236, Title I, § 172(a), Apr. 30, 1994, 108 Stat. 412; Pub.L. 104-106, Div. A, Title X, § 1088(a), Feb. 10, 1996, 110 Stat. 458.)

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

TAB B

-CITE-

10 USC Sec. 2636a 01/05/2009

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART IV - SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 157 - TRANSPORTATION

-HEAD-

Sec. 2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers

-STATUTE-

(a) Procurement of Coverage. - The Secretary of Defense shall include in a contract for the transportation at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both) a clause that requires the carrier under the contract to pay the full replacement value for loss or damage to the baggage or household effects transported under the contract.

(b) Deduction Upon Failure of Carrier To Settle. - In the case of a loss or damage of baggage or household effects transported under a contract with a carrier that includes a clause described in subsection (a), the amount equal to the full replacement value for the baggage or household effects shall be deducted from the amount owed by the United States to the carrier under the contract upon a failure of the carrier to settle a claim for such loss or total

damage within a reasonable time. The amount so deducted shall be remitted to the claimant, notwithstanding section 2636 of this title.

(c) Inapplicability of Related Limits. - The limitations on amounts of claims that may be settled under section 3721(b) of title 31 do not apply to a carrier's contractual obligation to pay full replacement value under this section.

(d) Regulations. - The Secretary of Defense shall prescribe regulations for administering this section. The regulations shall include policies and procedures for validating and evaluating claims, validating proper claimants, and determining reasonable time for settlement. The regulations may include a requirement that a member of the armed forces or civilian employee of the Department of Defense comply with reasonable restrictions or conditions prescribed by the Secretary in order to receive the full amount deducted under subsection (b).

(e) Transportation Defined. - In this section, the terms "transportation" and "transport", with respect to baggage or household effects, includes packing, crating, drayage, temporary storage, and unpacking of the baggage or household effects.

-SOURCE-

(Added Pub. L. 108-136, div. A, title VI, Sec. 634(a), Nov. 24, 2003, 117 Stat. 1509; amended Pub. L. 109-364, div. A, title III, Sec. 363(a), (b), Oct. 17, 2006, 120 Stat. 2167; Pub. L. 110-181, div. A, title III, Sec. 373, Jan. 28, 2008, 122 Stat. 82.)

-MISC1-

AMENDMENTS

2008 - Subsec. (d). Pub. L. 110-181 inserted at end "The regulations may include a requirement that a member of the armed

forces or civilian employee of the Department of Defense comply with reasonable restrictions or conditions prescribed by the Secretary in order to receive the full amount deducted under subsection (b)."

2006 - Subsec. (a). Pub. L. 109-364, Sec. 363(b)(1), substituted "shall include" for "may include".

Pub. L. 109-364, Sec. 363(a), substituted "at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both)" for "of baggage and household effects for members of the armed forces at Government expense".

Subsec. (b). Pub. L. 109-364, Sec. 363(b)(2), substituted "shall be deducted" for "may be deducted".

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title III, Sec. 363(b), Oct. 17, 2006, 120 Stat. 2167, provided that the amendment made by section 363(b) is effective Mar. 1, 2008.

TAB C

C

Effective: January 7, 2011

United States Code Annotated Currentness
Title 10. Armed Forces (Refs & Annos)
Subtitle A. General Military Law (Refs & Annos)
Part IV. Service, Supply, and Procurement (Refs & Annos)
Chapter 163. Military Claims (Refs & Annos)

→→ § 2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available

The Secretary of Defense and the Secretaries of the military departments, in paying a claim under section 3721 of title 31 arising from loss or damage to household goods stored or transported at the expense of the Department of Defense, may pay the claim on the basis of full replacement value in any of the following cases in which reimbursement for the full replacement value for the loss or damage is not available directly from a carrier under section 2636a of this title:

(1) A case in which--

(A) the lost or damaged goods were stored or transported under a contract, tender, or solicitation in accordance with section 2636a of this title that requires the transportation service provider to settle claims on the basis of full replacement value; and

(B) the loss or damage occurred under circumstances that exclude the transportation service provider from liability.

(2) A case in which--

(A) the loss or damage occurred while the lost or damaged goods were in the possession of an ocean carrier that was transporting, loading, or unloading the goods under a Department of Defense contract for ocean carriage; and

(B) the land-based portions of the transportation were under contracts, in accordance with section 2636a of this title, that require the land carriers to settle claims on the basis of full replacement value.

(3) A case in which--

(A) the lost or damaged goods were transported or stored under a contract or solicitation that requires at least one of the transportation service providers or carriers that handled the shipment to settle claims on the basis of full replacement value pursuant to section 2636a of this title;

(B) the lost or damaged goods have been in the custody of more than one independent contractor or transportation service provider; and

(C) a claim submitted to the delivering transportation service provider or carrier is denied in whole or in part

© 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

because the loss or damage occurred while the lost or damaged goods were in the custody of a prior transportation service provider or carrier or government entity.

CREDIT(S)

(Added Pub.L. 111-383, Div. A, Title III, § 354(a)(1), Jan. 7, 2011, 124 Stat. 4194.)

HISTORICAL AND STATUTORY NOTES

Effective and Applicability Provisions

2011 Acts. Pub.L. 111-383, Div. A, Title III, § 354(b), Jan. 7, 2011, 124 Stat. 4194, provided that: "(b) Effective date.--Section 2740 of title 10, United States Code, as added by subsection (a) [10 U.S.C.A. § 2740], shall apply with respect to losses incurred after the date of the enactment of this Act [Jan. 7, 2011].

10 U.S.C.A. § 2740, 10 USCA § 2740

Current through P.L. 112-207 approved 12-7-12

Westlaw. (C) 2013 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

END OF DOCUMENT

© 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

TAB D

d. Loss and Damage and FRV.

(1) FRV is the TSP's maximum liability on each Domestic (dHHG –CONUS) and International (iHHG - overseas) HHG shipment, and International Unaccompanied Baggage (iUB) shipment is:

(a) $5,000 per shipment or $4.00 times the net weight of the HHG shipment, or gross weight of the iUB shipment, in pounds, not to exceed $50,000, whichever is greater.

(2) For damage discovered on the day of delivery, the customer must complete the DP3 Notification of Loss or Damage AT Delivery, Figure 401-2, which is provided by the TSP to the customer during delivery.

(3) For damage discovered after the delivery date, customer must complete DP3 Notification of Loss or Damage AFTER Delivery, Figure 401-3, provided by the TSP at delivery, within 75 days of the delivery date. The preferred notification is via DPS.

(4) The customer must file their claim against the TSP in DPS within nine months of delivery to be eligible for FRV.

e. Claims Counseling. If the customer's property is lost or damaged during the move, they may file a claim against the TSP. The customer will have the option of quick-claim settlement (under $500) or filing their FRV claim against the TSP in DPS. The customer is authorized to submit claims based on FRV. The TSP has the right to repair items to pre-shipment condition. If the TSP elects to repair damaged items, the TSP is responsible for obtaining all repair estimates.

(1) The TSP may offer quick claim settlement for minor loss or damage (less than $500) within five days of delivery. Quick claim settlements are at the discretion of the TSP and are not reported in DPS unless the customer files an additional claim.

(2) If the customer must file a FRV claim for loss or damage, the FRV claim against the TSP must be filed through DPS. The customer and the TSP will also negotiate a settlement through DPS. The TSP must pay, deny, or make an offer within 60 days of receipt of a complete claim through DPS. The customer will have the ability to accept or reject the TSP's offer on a line-by-line (item) basis.

(3) DOD customer have the option to transfer their claim in DPS to the servicing MCO after 30 days. In these instances the MCO pays the customer depreciated value and then pursues the FRV claim with the TSP. After settlement with the TSP, if the FRV settlement exceeds the amount paid by the MCO to the customer, the customer will receive the difference.

f. Inconvenience Claims. It is the TSP's responsibility to pickup and deliver personal property shipments on the agreed dates as reflected on the BL. Failure to do so can cause serious inconvenience to the DOD customer and family, and can result in the expenditure of funds by the customer for lodging, food, rental/purchase of household necessities. When necessary the customer will be advised to file their inconvenience claim directly with the TSP for out-of-pocket expenses. The PPSO/PPPO must caution the customer that out of pocket expenses must be reasonable and relate directly to relieving a definite hardship when establishing a household. When there is a dispute between the customer and TSP, the PPSO/PPPO must ensure the TSP has met its obligations IAW the Tender of Service (TOS) (Appendix B). If the TSP fails to comply with the requirements set forth, the PPSO/PPPO may forward the complete inconvenience claim details package with a recommendation to HQ SDDC for resolution.

supplemental billings to reflect the reduced charges or voluntarily submit a refund based upon the new weight obtained.

11. Removal of Property from Facilities Disapproved by the PPSO:

When my facilities or the facilities of my SIT warehouse are disapproved for further use, and it is considered necessary by the PPSO to remove the personal property to prevent damage or contamination, I will immediately remove the property to a DOD-approved warehouse. The costs of such removal will be at no expense to the government or the customer.

12. Loss or Damage:

I will exercise care to prevent loss or damage of personal property in the process of packing and unpacking and will properly and amply protect personal property in my possession. I agree to pay, decline, or make a firm settlement offer in writing to the claimant within 60 days after receipt thereof, IAW the International Tender and Domestic Tariff and will complete payment to the claimant within 30 days of receipt of notice the claimant has accepted full or partial payment. If the claim is not settled within the 60-day period, I will, at that time and at the expiration of each succeeding 30-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reasons for delay in making final disposition. I will request an extension from the claimant in writing. If the Government is the claimant, I understand the Government claims office can proceed to collect the claim by administrative offset, if it is not settled within 60 days of receipt or within an agreed extension time. I will ensure DPS is updated with final action taken, including date and total amount of the settlement.

13. Inconvenience Claims:

a. I hereby reaffirm it is my responsibility to pickup on the agreed date-and deliver personal property shipments on or before the RDD as reflected on the BL, and to meet the agreed upon delivery date out of SIT. My failure to do so can cause serious inconvenience to DOD customers and their family, and can result in the expenditure of funds by the customer for lodging, food, and/or rental/purchase of household necessities.

b. I agree to acknowledge receipt of an inconvenience claim filed by a customer or a PPSO within seven calendar days from the date of receipt. I further agree to reimburse the customer within 30 days from receipt for reasonable out-of-pocket expenses while awaiting the delivery of their Household Goods (HHG) or Unaccompanied Baggage (UB) which result from my failure to pickup on the agreed dates and deliver on or before the RDD as stated on the BL or correction notice thereof. I am not liable for costs if delay was caused by natural disasters, acts of the public enemy, acts of the Government, acts of the public authority, violent strikes, mob interference, or delays of Code 5, Code J, or Code T shipments that were caused by the Government and my negligence did not contribute to the delay. When supported by receipts, my maximum liability for lodging and meal expenses will not exceed the daily lodging and meal per diem rate, based on the number of dependents in the customer's family (e.g., the customer and spouse would be expected to share one room in a hotel; additional dependents, depending on age and sex, maybe require additional rooms). will document the claim fully with an itemized list of charges and accompanying receipts for charges incurred. For a missed pickup, charges will be computed from the first day of the missed pickup as specified on the BL and will be payable through the actual pickup date. For failure to deliver on or before the RDD, charges will be computed starting on the first day after the RDD as specified on the BL, and will be payable through the date of actual delivery of the shipment. I am not responsible for payment of an inconvenience claim when a shipment is ordered into SIT at destination, unless the need for SIT is a direct result of my failure to deliver on or before the RDD. For example; if the customer is available to accept

delivery after the RDD and they are officially ordered away prior to arrival of the shipment, I agree to reimburse the customer through the day prior to the customer's departure from the area. I also agree that I may be liable for an inconvenience claim, should a shipment be placed in SIT without my notifying the customer.

c. Expenses: Out-of-pocket expenses are expenses incurred by a customer and their dependents because they are not able to use necessary items in their shipment to establish their household. Expenses include but are not limited to lodging, meals, laundry service, as well as furniture and/or appliance rental (to include rental of a television), and/or purchase of items such as towels, pots, pans, paper plates, plastic ware, and napkins. A request for reimbursement of alcoholic beverages in any quantity is prohibited. If I purchase or reimburse tangible household items such as towels, pots, and pans, I may make arrangements to reclaim those items upon delivery of the customer's shipment.

d. I am not liable for costs if delay was caused by natural disasters, acts of the public enemy, acts of the Government, acts of the public authority, violent strikes, mob interference, or delays of Code 5, Code J, or Code T shipments that were caused by the Government and my negligence did not contribute to the delay.

e. In the event of a disputed claim, the origin PPSO (for missed pickup) or destination PPSO (for deliver) will make every effort to resolve the dispute between the customer and the TSP. Should I disagree with the PPSO resolutions, I may appeal the case to SDDC within 10 days of notification from the responsible PPSO. I understand the decision of SDDC is final and the claim must be settled within 10 days from the date of the SDDC final decision. If SDDC determines the claim is valid, and I refuse to pay or resolve the claim, SDDC may place my company in non-use and convene a TSP Review Board to determine if further punitive action should be taken.

14. Statement of Accessorial Services Performed:

My representative will prepare a DD Form 619, Statement of Accessorial Services Performed, Figure B-1, itemizing accessorial services performed and furnish the customer or customer's representative a copy when such services are required and separately charged. An invoice supporting the type of service performed must support appliances serviced by a third party. No accessorial services will be billed when such services are included in single factor rates. All accessorial services must be requested and approved by the PPSO in DPS.

15. Shipment Inspection by PPSOs:

My services and manner of handling personal property are subject to inspection and acceptance by the PPSO or PPSO's authorized representative.

16. Substitute Documents in Lieu of Lost BL:

If the original BL is lost or destroyed, I will request and be provided a certified true copy of the issuing office's copy for use as a substitute billing document. If the original copy of the BL is located and made available to me before settlement is made, I will return the certified copy to the issuing office. If the original BL is found after settlement, I will forward the original BL to the issuing office for proper voiding.

17. Billing Procedures:

For services rendered, I agree to bill the Service/Agency finance office responsible for payment of the transportation charges IAW procedures disseminated by the Commander, SDDC or other Services.

TAB E

INFORMATION PAPER

JACS-PC
June 12, 2014

Subject: Concise Guide to Mold Rules Issued by SDDC

1. The purpose of this information paper is to explain the basic principles on which the Mold Rules are based. Rules concerning the movement, storage, or remediation of a shipment believed to be contaminated by mold, or payment of claims for mold damage, are contained in changes to the Section covering mitigation in the DP3 Claims and Liability Rules (20 May 2014 Version), and changes in DTR Part IV Chapter 410 (Specialized Procedures), which may be accessed at http://www.transcom.mil/dtr/part-iv/dtr-part-4-410.pdf

2. There are four parties or stakeholders involved in dealing with any shipment contaminated or believed to be contaminated by mold: the owner of the shipment, the TSP/handler (for my purposes this includes any company handling or storing the shipment, regardless of the contractual form, GBL, DPM, purchase order, etc.), the TO/PPSO, and the MCO. Notice of mold contamination should be given to all stakeholders as soon as possible after it is discovered.

3. The shipment should not be transferred to another TSP/handler, or delivered to the owner, once mold is detected. If it's in a warehouse, it should not be picked up; if it's already been picked up, the TSP/handler should not deliver it; if it's detected during delivery, the TSP/handler should abort the delivery and take back possession of the shipment.

4. Mitigation/remediation that occurs before the shipment is delivered is not part of the claims process, it is part of the shipment process. It can have an effect on a claim if one is eventually filed. For example, the cost of remediation reduces the maximum liability for a claim, if that cost is borne by the TSP/handler determined to be liable for the mold contamination.

5. The TSP/handler in possession of the shipment is responsible for mitigation/remediation, but if it is ultimately determined that it is not liable, it should be reimbursed by the Government as an accessorial charge.

6. If all stakeholders cannot agree on what should be done with a shipment after mold is detected, the MCO has the final say, even if a claim has not yet been filed.

7. If remediation is not successful for a given item or the entire shipment (as decided by the MCO after reviewing all the evidence, if the matter is in dispute) the owner is then entiled to be paid to replace the item(s). The TSP's maximum liability may not cover this, in which case the owner can file with the MCO for the rest.

STEVEN R. KELLY
Chief, Personnel Claims Branch

TAB F

Stages of Shipment at Which Mold Issues Arise

Industrial Hygienists say that some form of mold is present almost everywhere. That doesn't get any handler of the shipment off the hook, because the question becomes, how and why did harmful mold develop or become noticeable.

1. Pick-up: TSP should not accept

2. Storage: mold usually develops, or spreads, during lengthy period of storage

3. Pick up by delivery carrier from warehouse: Delivery carrier should not accept

4. Delivery to home: Carrier should abort delivery.

5. After delivery: health consideration primary at this point, contaminated property should be disposed of or transported to remediation company ASAP.

6. At ServPro: Will test for presence of mold, if yes, will determine if remediation possible.

7. Determination as to whether remediation successful or not. If ServPro and/or TSP says yes, and member says no, MCO decides.

8. MCO: Decision on success of remediation is binding on the TSP, and the member. If MCO says no TSP must pay for items or shipment as being destroyed. If TSP won't pay, MCO will pay and pursue recovery. If MCO says yes, neither TSP nor MCO required to pay.

TAB G

(2) SDDC must consolidate all data for their use in the audit of these shipments for recovery of excess funds expended by the DOD to complete movement of the shipments.

(3) SDDC must provide the results of the recovery actions to the Services involved.

D. EMERGENCIES INVOLVING SHIPMENTS IN NTS (CONUS)

1. Purpose and Scope. This paragraph prescribes procedures and provides guidance for the notification to SDDC, of any incident at a commercial storage facility that affects, or is likely to affect, the storage of personal property. It applies to any incident (such as flood, fire, and unlawful entry) that causes, or is likely to cause, loss or damage to stored personal property. It also applies to bankruptcy proceedings or any adverse actions against or by a storage provider that impedes or prevents the removal of goods from storage or result in loss or damage to stored personal property.

2. Actions to Be Taken by the PPSO.

   a. Upon becoming aware of an incident or situation that is causing, or is likely to cause, loss, damage, or frustration of personal property shipments in storage, the PPSO must immediately notify the responsible SDDC RSMO or theater SDDC office. Incidents or situations to be reported include, but are not limited to, the following:

      (1) Natural disasters (such as floods, fires, and storms).

      (2) Unlawful entries.

      (3) Strikes, work stoppages, or embargoes.

      (4) The seizure of a storage facility for failure to pay just debts.

      (5) Closure of a storage facility in compliance with a court order.

      (6) Action on the part of the storage providers creditors to file a bankruptcy petition.

      (7) Failure on the part of the storage provider to fulfill all the terms and conditions of the TOS for storage of HHG and related services (Appendix J).

3. SDDC Notification Furnished to USTRANSCOM and the DOD/USCG Components. To inform the DOD of unusual circumstances that may result in the filing of a large number of claims for loss or damage to stored personal property shipments, the CDR, SDDC, must provide each DOD component claims office a copy of the RSMO or theater SDDC offices final report.

E. MOLD PREVENTION AND REMEDIATION

The TSP may be liable for additional damage that results from its failure to take reasonable steps to mitigate the extent of the loss. For example, if a shipment is damaged by water, the TSP, as soon as practical, should attempt to clean and dry the items, rather than allow further damage (e.g., rust, warping, or mildew), to develop from prolonged exposure to dampness. The PPSO/PPPO may direct the TSP to undertake specific mitigation work, or may authorize payment for mitigation work, subject to later determination of whether the government or the TSP is liable for the cost. The cost of any such mitigation efforts not paid for by the government is deducted from the TSP's maximum liability.

a. Mold. Shipments that develop mold in-transit present special problems. When containers show signs of contamination, for example water saturation or mold growth on the exterior, the TSP is required to contact the responsible PPSO by phone and via written notification (e-mail preferred with Delivery and Read Receipt as proof of notification). The responsible PPSO will make arrangements with the closest PPSO/PPPO for a QA inspector to be present at an agreed upon location within two business days to be present when the seals are broken and the containers are

inspected for mold. If the PPSO/PPPO is unable to provide a QA inspector, contact SDDC at usarmy.scott.sddc.mbx.pp-perf@mail.mil. If there is no evidence of mold, the containers will be resealed and shipment will continue in-transit to destination. If mold is discovered, the TSP will notify the customer and the inspecting PPSO/PPPO will notify the servicing MCO and the destination PPSO (when applicable) with the findings. The TSP in possession at the time the mold is discovered is responsible for arranging mitigation.

b. Payment in lieu of remediation. Prior to undertaking any remediation work, the TSP procures the services of a qualified mold remediation firm, if reasonably available at the destination location, unless otherwise directed by the MCO or the PPSO/PPPO. The mold remediation firm will make a preliminary assessment of any mold damage and the TSP is required to provide a copy of any estimates to the PPSO, MCO, and customer. The MCO will determine whether circumstances warrant disposal of the contaminated shipment without attempting remediation after consultation with the TSP, mold remediation firm, PPSO/PPPO, and customer. If the MCO determines that remediation is appropriate and reasonable under the circumstances, and the customer refuses delivery, the customer will be advised that the TSP is only liable for the lesser of the remediation cost or full replacement cost.

c. Items Suitable for Cleaning or Remediation. Whether mold contaminated items are suitable for cleaning or remediation depends upon several factors including, but not limited to, the extent of the contamination on a particular item, the nature of the material contaminated, limiting future contamination, and the cost of remediation in relation to the value of the item. If items are still wet, measures are normally taken to dry all items suitable for cleaning or remediation. The TSP will identify items that are suitable for cleaning or other remediation and items that are not suitable for cleaning or remediation. The TSP is required to notify the QA inspector and customer of the date/time/location prior to beginning the remediation process.

d. Items Not Suitable for Cleaning or Remediation. When it is determined that contaminated items are not suitable for cleaning or remediation, the TSP will notify the customer. The TSP is not required to transport contaiminated items not suitable for cleaning or remediation. The TSP will offer the customer an opportunity to inspect the shipment and remove items of sentimental or special value at the owner's discretion. Before removal of any items, the customer will be advised that the TSP may require the customer to release them from personal injury liability for exposure to mold.

e. Delivery of remediated items. Items that have been remediated will normally be delivered to the customer as soon as practical after remediation is complete. Before delivery, TSP's will notify the customer and PPSO/PPPO that the items have been remediated, are ready for delivery, and provide a reasonable opportunity to inspect the remediated items before delivery begins.

f. Customer inspects remediated items. If the customer inspects and accepts all remediated items, the goods will be delivered as soon as practical. If the customer does not accept the remediation on any item the TSP will normally accept a claim for compensation at FRV. If the TSP disagrees with the customer on any item, the TSP will contact the destination PPSO of the conflict. The PPSO/PPPO will contact the servicing MCO who will make the determination on the disposition of the remediated items Each Service MCO can be found at http://www.move.mil/dod/claims_css/dod_claims.cfm.

g. Customer does not inspect remediated items. Some customers may decline to inspect or decline to respond to the notification to inspect remediated. When known, the customer should advise the TSP before delivery transportation begins that they will not accept the delivery. If the customer refuses delivery of remediated items after delivery of those items begins, the TSP will be instructed to transport those items to an DOD approved storage facility at the TSP's discretion. In either case, the TSP will notify the destination PPSO of the situation and await further

direction. The PPSO/PPPO will contact the servicing MCO whom determines disposition of the remediated items in question.

h. Accessorial Services payments for mold contamination. Costs associated with mold remediation are normally at the expense of the TSP, however, accessorial service payments may be authorized under limited circumstances. Accessorial services for mold mitigation will normally be authorized when the mitigating TSP is not liable for the damage. The MCO will determine liability. Other factors that may warrant accessorial service payments include, but are not necessarily limited to, the number and size of contaminated shipments, the extent of contamination, and the availability of mitigation/ remediation services at the location. Types of accessorial services that may be authorized for mold mitigation/remediation include, but are not necessarily limited to repacking, container costs, mold remediation firm services, estimate fees, drayage, TSP remediation costs, refused delivery charges, and disposal. Destination PPSO/PPPO will approve accessorial service payments to TSPs for the cost of government ordered testing or inspection or other charges occasioned by such orders when no outward indication of mold is present on the shipping container(s) and no mold is found in the container(s).

i. Code J, Code T and Code 5 mold contaminated shipments and shipments where the TSP is relieved from liability. When notified of the presence of mold, the destination PPSO/PPPO will approve accessorial service payments to TSPs for mold remediation on Code 5, Code J, and Code T shipments regardless of liability, and on shipments where the TSP has been relieved of liability, up to the TSP's maximum liability for that shipment. If the TSP is determined to be liable for the damages in a Code 5, Code J, and Code T shipment, the MCO will recover the payment either through voluntary refund from the TSP, offset, or through the claims process.

j. SIT during remediation. This service is normally at the expense of the TSP except for Code J, Code T, Code 5, or after a determination that the TSP is not liable.

k. Disposal after payment in lieu of remediation. Destination PPSO/PPPO should approve accessorial service payments for TSP disposal of mold contaminated items when the TSP has made a payment to the member in lieu of remediation and the TSP has exceeded their maximum liability on the shipment.

l. Disposal after refused delivery. Destination PPSO/PPPO may approve accessorial service payments to TSP's for refused delivery charges after remediation and disposal after remediation when the customer refuses delivery if the refusal was unreasonable under the circumstances and the TSP has exceeded their maximum liability on the shipment. The servicing MCO will determine the reasonableness of a customer's refusal of delivery.

CONTAINS INFORMATION SUBJECT TO THE PRIVACY ACT OF 1974, AS AMENDED.

STATEMENT OF ACCESSORIAL SERVICES PERFORMED

This form is required only when accessorial services are chargeable to the Government. Carrier will enter complete information or "None" in columns. "Unit Price" and "Charge" columns may be omitted when charges are itemized on the Standard Form 1113.

OMB No. 0702-0022
OMB approval expires May 31, 2011

The public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 1155 Defense Pentagon, Washington, DC 20301-1155 (0702-0022). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ORGANIZATION.

1. GOVERNMENT BILL OF LADING NUMBER	2. DATE OF PICKUP AT ORIGIN (YYYYMMDD)
3.a. NAME OF OWNER (Last, First, Middle Initial)	
b. SSN	c. RANK OR GRADE
4. ORIGIN OF SHIPMENT	5. DESTINATION OF SHIPMENT
6.a. ORDERING ACTIVITY/INSTALLATION NAME	b. LOCATION
7.a. NAME OF CARRIER	b. NAME OF AGENT (Last, First, Middle Initial)
8. SIGNATURE OF CARRIER'S REPRESENTATIVE	9. DATE (YYYYMMDD)
10. CARRIER'S SHIPMENT REFERENCE NO.	11. AGENT OR DRIVER CODE
12. PROFESSIONAL BOOKS, PAPERS AND EQUIPMENT (PBP&E) INCLUDED IN SHIPMENT (If not included, write "None".)	LBS.

13. STORAGE-IN-TRANSIT (SIT)

a. STORED AT (1) CITY	(2) STATE	b. SIT SERVICES PROVIDED AT (X one)	ORIGIN / DESTINATION / OTHER
DATES (YYYYMMDD): c. IN	d. ORDERED OUT	e. DELIVERED OUT	f. NUMBER OF DAYS / g. NET WEIGHT
h. REQUESTED DELIVERY DATE (YYYYMMDD)	i. SHIPMENT ORDERED INTO AND OUT OF SIT ON DATES INDICATED AND AUTHORIZED BY SIT CONTROL NO.		
j. WAS STORAGE POINT FOR CARRIER'S CONVENIENCE (X one)	YES	NO	

14. REWEIGH CERTIFICATION (If applicable)	a. NUMBER
b. ORIGINAL GROSS	c. REWEIGH GROSS
d. ORIGINAL TARE	e. REWEIGH TARE
f. ORIGINAL NET	g. REWEIGH NET

15. APPLIANCES SERVICED (Owner/Agent must initial each entry separately.)

TYPE a.	MAKE/MODEL NO./MANUFACTURER b.	OWNER/AGENT INITIALS c.

16. ACCESSORIAL SERVICES

PACKING, PACK MATERIALS AND UNPACKING (1)	NUMBER (2)	UNIT PRICE (3)	CHARGE (4)
a. DISH PACK			
b. CARTONS (Less than 3 cubic feet)			
c. CARTONS (3 cubic feet)			
d. CARTONS (4-1/2cubic feet)			
e. CARTONS (8 cubic feet)			
f. CARTONS (8-1/2 cubic feet)			
g. WARDROBE (Not less than 10 cubic feet)			
h. MATTRESS, CRIB			
i. MATTRESS (Not exceeding 39" x 75")			
j. MATTRESS (Not exceeding 54" x 75")			
k. MATTRESS (39" x 80")			
l. MATTRESS (Exceeding 54" x 75")			
m. TOTAL			
n. TOTAL SUBJECT MAX-PAK 5 (Net)			
o. GRANDFATHER CLOCK CARTONS			
p. CORRUGATED CONTAINERS (Special constr.)			
q. BOXES - WOODEN/CRATES (Not over 5 cu ft.)			
r. BOXES (Over 5 cu ft./not over 8 cu ft.)			
s. BOXES (Over 8 cu ft.) (Gross cu ft.)			
t. CRATES (Cubic feet) (Minimum charge)			
u. CARTONS, DOUBLE WALL (PPP-B-1364) & TRIPLE WALL (PPP-B-640) (Not over 4 cu ft.)			
v. CARTONS (Over 4 cu ft./less than 7 cu ft.)			
w. CARTONS (7 cu ft./less than 15 cu ft.)			
x. TOTAL PACKING CHARGE			
y. LABOR (Describe service in "Remarks") (Enter number of man-hours)			
z. (X as applicable) EXTRA PICKUP / EXTRA DELIVERY / AUXILIARY SERVICES			
aa. PIANO/ORGAN CARRY SERVICE			
bb. ELEVATOR/STAIR/EXCESS DISTANCE			
cc. SERVICING APPLIANCES/OTHER ARTICLES (As itemized and initialed in item 15)			
dd. OTHER (Describe in "Remarks")			
ee. TOTAL ACCESSORIAL SERVICE CHARGES			

17. REMARKS

18. STATEMENT OF OWNER, MILITARY INSPECTOR/TRANSPORTATION OFFICER

a. MATERIALS WERE FURNISHED/ACCESSORIAL SERVICES WERE PERFORMED	b. SIGNATURE (Do not sign until Carrier has completed column 16(2).)	c. DATE SIGNED (YYYYMMDD)
AT ORIGIN / OTHER (Explain) / AT DESTINATION		

19. TRANSPORTATION OFFICER CERTIFICATION. I CERTIFY THAT SHIPMENT SERVICES WERE ACCOMPLISHED AS SHOWN BELOW.

a. SERVICES ACCOMPLISHED (X as applicable)

(1) ACCESSORIAL SERVICES (Listed in Item 16)	(3) REWEIGH CERTIFICATION	(6) WAITING TIME	(9) OTHER (Specify)
(2) STORAGE-IN-TRANSIT	(4) THIRD PARTY SERVICES	(7) UNPACKING SERVICE (Baggage only)	
	(5) BULKY ARTICLE CHARGE	(8) OVERTIME LOADING/UNLOADING CHARGE	

b. SIGNATURE OF TRANSPORTATION OFFICER	c. TITLE (Print or type)	d. DATE SIGNED (YYYYMMDD)

DD FORM 619, MAY 2008 PREVIOUS EDITION MAY BE USED. Reset Adobe Professional 7.0

Figure 410-3. DD Form 619 – Statement of Accessorial Services Performed

TAB H

Comparison of Old and New DP3 Claims & Liability Rules

General overview first that may help in understanding the changes:

1. Representatives from Industry associations (IAM, AMSA) HHG Claims Adjusting Companies (National Claims Services) and Military Claims (USARCS, Air Force Claims Service Center, Navy Claims HQ at Norfolk) have been meeting since March 2010 to create changes to the Claims Rules that would be acceptable to all parties. Industry was told that if push came to shove, ultimately these rules were issued by the DoD as part of a Government contract, so there might be some things that were changed even if they did not agree (or, as it turned out, changes that they wanted might not be made). That said, the approach that was taken by USARCS and the representatives from Air Force and Navy, was that cooperation was better than confrontation, and that the TSPs were more likely to make a good faith effort to follow Rules that they had a hand in making.

2. SDDC accepted almost all of the recommended changes from the Industry/MCO group, and did not take very long to do so and to publish the new rules.

3. Many of the changes were not intended to change the substance of the old rule, but to clarify it, so the results on whether a claim should be paid, and for how much, should be the same in many instances regardless of whether the old or new Rules apply.

I'll just list each Section in which a significant change has been made, what the change was (not word for word, but the gist), and any further explanation or examples I think are necessary to understand the change and why it was made.

1.0 Liability

1.0.5 Added. This explains that inconvenience claims are separate from loss/damage claims, and cites to DTR provision which provides for these claims.

1.1 FRV Liability:

Lettered subparagraphs changed to numbered subparagraphs. Statement added at 1.1.2.1 (The TSP is obligated to replace items that are damaged and not repairable) was to emphasize that TSP liability is never limited to only LOV or Appearance allowance.

We have informed Industry that IF the claimant was agreeable, it could pay money to settle claim that was not tied to repair or replacement cost, because sometimes claimants would rather have cash than a repair in kind, or would not want to turn item over to TSP which they would be required to do if they received FRV. Industry wanted this concept to be explicitly stated in the rules, but we would not agree, as many of us thought that to put this in writing would mislead some claimants to think they HAD to accept LOV.

1.1.2.2: Clarified that inability to match individual items in a set obligated the TSP to replace the set, that the list of collectables is not exclusive, and that the MCO may supplement the list.

1.2 ACTUAL VALUE

Outdated link to JMIDG deleted

1.3 EXCLUSIONS

1.3.4 Dealing with shipments entering storage before 1 March 2008 deleted.

1.4 DUTY TO Mitigate Loss

IMPORTANT: No change to this version of Rules from old. However, this one paragraph is in the process of being expanded to cover rules for mold claims. And will soon (we hope) be issued by SDDC separately.

1.5 TIME Limitations

Most of this new Section is the same as the old Section, although it has been rearranged. There are 3 very important changes, however:

1.5.1.1: What constitutes a "claim" for the purpose of the claimant meeting deadlines, and triggering the running of deadlines for the TSP, is defined. A claim has to identify the customer (claimant); contain facts sufficient to identify the shipment; assert a demand for a specific OR DETERMINABLE amount; and list the items claimed for. The capitalized language is critical. Industry has maintained the position for years that a claim was not submitted unless a sum certain was demanded for each item. The downside with that from the claimant's position is that he might in ignorance submit a low cost of repair (after all, the TSP is required to obtain estimates), which might immediately be accepted by the TSP. We insisted that if a general description of the damage were submitted, the TSP could determine the amount that should be paid (even if more work were required to make that determination), and this was sufficient.

1.5.1.2. A requirement was added that the claimant must respond to an offer made by the TSP, if one has been made before the transfer to the MCO (he still has the right to transfer after 30 days if no offer has been made)

1.5.4.1 A TSP now MUST submit requests for extension of the 9 months or two years. The old rules said it "should" do this.

1.6 Liability For Goods In Storage

1.6.1. Same as previous with added language to clarify when liability terminates on expiration of SIT authorization.

1.6.2. Added. Essentially, once storage terminated cannot be revived on original GBL.

1.6.3. Added. Conversion to member's expense mandates TSP provide a copy of any joint inspection conducted to the member.

1.7 High Value items and High Risk Inventories

1.7.1 The new version removed the limited list of items that can be considered high value, and instead provides that anything with a value in excess of $100 per pound can be considered high value.

1.8 Transfer of Custody of Shipments

Important change: Under new rules receiving TSP has right of joint inspection "regardless" of whether the crate is damaged or the seals are intact. Under old Section receiving TSP right to inspection limited to damaged crate or broken seal.

2.0 Claims

New section cross references Section 2.2

2.1 Claims Filing

Many important changes in this Section. To mirror Section 1.5, now the TSP MUST contact the MCO for a decision on an extension, not "should." The other standards regarding timeliness in Section 1.5 are also adopted by reference.

Under the new Section 2.1, after the transfer of a claim from TSP to MCO, the MCO "must" contact the TSP to ask, not just for copies of estimates, but for any documents relevant to negotiation or settlement (that would be just about anything in the TSP file). The TSP "must" provide the documents requested. The TSP can make redactions to estimates of "proprietary information," see Section 2.3.5.1. Industry was unhappy that the MCOs did not always contact the TSP to get its side of the story. And claims people were unhappy that they did not always get what they asked for from the TSP. We solved both of these problems with this provision, providing essentially for open discovery of the TSP's file. The issue usually came to dispute over copies of estimates. If the TSP is responsible for obtaining a repair estimate, it does so, and its offer is based on the estimate, how can the claimant evaluate the offer unless he has a copy? The industry bugaboo was that sometimes nasty comments about the claimant or his

house were made in the estimates. Such "proprietary" information is now explicitly permitted to be redacted.

2.1.6. Added. Clarifies that in shipments with multiple handles tolling of time limitation are satisfied for all if satisfied for the delivering TSP. Requires TSP's to notify customers when denials of all or part of the claim is based upon a prior handlers liability.

2.2 Exceptions to Filing in DPS

No large changes, it is specifically stated that all DP3 claims rules not relating to DPS still apply even if claim not filed in DPS.

2.3 Substantiation of Claims

2.3.1.3 Added: if claimant files after nine months, he is responsible to obtain estimates, not the TSP.

2.3.2 Internal Damage Rule

No changes. However, this section is often overlooked in disputes over obtaining estimates for electronic items. A claimant cannot obligate a TSP to obtain an estimate of repair on such an item simply by writing "Don't work" on a notice of loss and damage form.

2.3.3 Notice of Loss and Damage

Big Change: 2.3.3.2.1 TSP must update DPS to reflect that delivery has taken place. If it does so within 3 days (the requirement for other than claims purpose), the 75 day period for notice begins on the date of delivery. If after 3 days, the 75 days begins to run the day after the TSP enters the delivery date.

Other change: New 2.3.3.3 If no timely notice, and claimant requests an extension, TSP must submit to MCO for decision on extension. Under old rule, TSP always had to submit to MCO for decision on extension, whether or not claimant requested extension.

2.3.4 Inspections: No significant changes

2.3.5 Repair Estimates

Two important Changes

2.3.5.1: TSP must provide estimate, subject to redaction of "proprietary" information.

2.3.5.6: In kind repairs must be to the "reasonable" satisfaction of the claimant. My Info paper on this subject, which is in the DP3 Claims Handbook, was based on this language, I erred in thinking that this was the language already in the Rules at the time I wrote the info paper, rather than a proposed change.

2.4 Settlement of Loss and Damage Claims and 2.5 Partial Settlements

These 2 Sections were completely rewritten, mostly by me. My intent was not to change the substantive rules, but to explain them more clearly and in much greater detail than the old version of these two Sections, and to make it clear that the claimant and the TSP have a large amount of flexibility in the terms of the settlement, as long as the claimant agrees. I believe that this flexibility existed under the old rules, but everybody felt a lot more comfortable with these things being spelled out. You should read both of these sections in their entirety (2 pages total).

To summarize, the TSP must offer a settlement of each item individually, and it must offer either repair (in kind or payment of repair cost) or full replacement cost, no LOV. The claimant can always insist on these things (although the TSP can also insist the claimant follow the rules to the letter, such as turning over items for salvage or allowing repair in kind w/o getting any money). IF the member is willing to deviate from this, there can be a cash payment for an item not linked to repair or replacement, a lump sum settlement, w/o an amount for each item specified, or what I wanted to call "horse trading," one side taking less or paying more on one item in exchange for a concession on another item.

2.6 Quick Claim settlement - No Change

2.7 Salvage

One change, in 2.7.1. Language added to allow claimant to bargain with TSP over salvage, i.e., to agree for claimant to accept less than FRV if TSP waives salvage.

2.8 Claims for $25 or less - No Change

2.9 Dispute resolution: Only change is from 30 (old) to 60 (new) days for TSP to settle. Old version was in error. Claimant can choose to transfer after 30, but TSP is not in violation of rules unless it takes more than 60 days to pay, deny, or make an offer.

2.10 Catastrophic Loss Payments

2.10.1 TSP is now required to notify MCO when a catastrophic loss occurs.

Comparison of Old and New DP3 Claims & Liability Rules

2.11 Essential Items - No changes

2.12 Claims Processing in DPS - No Changes

2.13 Filing Notice of Loss/Damage

2.13.2.1 TSP must update DPS to reflect that delivery has taken place. If it does so within 3 days (the requirement for other than claims purpose), the 75 day period for notice begins on the date of delivery. If after 3 days, the 75 days begins to run the day after the TSP enters the delivery date.

2.14, 2.15, and 2.16 - No Changes

2.17 Unearned transportation

Big Change: reflecting Court of federal Claims decision BINL v United States, TSP is not liable for unearned freight for lost or destroyed item if it has paid FRV for that item.

2.18 Shared Liability on International Shipments

No change in language of the new Rule. However, USARCS has agreed that Gap legislation enables the Services to pay their entire 50% share, even if that 50% share exceeds the depreciated value of the entire shipment. The theory is that these are multiple handler situations in which the delivery TSP is partially denying liability on the ground that a prior handler (the US Government) caused some of the damage.

Sections 3.0 thru 3.4

These sections deal with how claims with multiple TSPs are managed in DPS. However, the Claims Module has never had the capability of doing these things, and likely never will. For that reason, no time was spent reviewing or changing these sections; they probably should have just been rescinded.

TAB I

Military Surface Deployment
And Distribution Command
(SDDC)

The Defense Personal Property Program
Claims and Liability Business Rules

20 May 2014
Version 1.0

Table of Contents

Introduction 3
1.0. Liability 4
1.1. FRV Liability 4
1.2. Actual Value (Depreciated) Liability 6
1.3. Exclusions from Liability 7
1.4. Duty to Mitigate Loss 8
1.5. Time Limitations on TSP Liability for Loss and Damage Claims 12
1.6. Liability for Goods in Storage 14
1.7. High Value Items and High Risk Inventories 14
1.8. Transfer of Custody of Shipments 15
2.0. Claims 16
2.1. Claims Filing 16
2.2. Exceptions to Filing in DPS 17
2.3. Substantiation of Claims 18
2.3.1. Introduction. 18
2.3.2. Internal Damage Rule 19
2.3.3. Notice of Loss and Damage 19
2.3.4. Inspection by the Transportation Service Provider 20
2.3.5. Repair Estimates 21
2.4. Settlement of Loss and Damage Claims 22
2.5. Partial Settlements. 23
2.6. Quick Claim Settlement 24
2.7. Salvage 24
2.8. Claims for $25 or Less 25
2.9. Dispute Resolution 25
2.10. Catastrophic Loss Payments 26
2.11. Essential Items 27
2.12. Claims Processing in DPS 28
2.13. Filing Notice of Loss/Damage. 28
2.14. Checking Status of Loss/Damage Claim 29
2.15. TSP Denied Loss/Damage Claim 30
2.16. Responding to a TSP Proposed Settlement 30
2.17. Unearned Transportation 30
2.18. Shared Liability on International Shipments 31
3.0. Claims Management with Multiple TSPs 31
3.1. Documenting Loss/Damage and Filing Claim 32
3.2. Shared Liability Settlement Process 32
3.3. Split Line Item Settlement Process 32
3.4. Acceptance of Claim 33

Introduction

The Defense Personal Property System (DPS) will use the Phase II-developed Claims Management module and functionalities for Non Temporary Storage (NTS) claims and Direct Procurement Method (DPM) claims. NTS and DPM claims will be rolled into DPS with the deployment of Phase III. The business rules as modified in this document will replace the rules developed for Phase II for all claims filed in DPS.

The Claims Management methodology is such that the customer may directly settle a claim with a Transportation Service Provider (TSP) through DPS. If the customer files a claim with the TSP via DPS within nine months of delivery, the TSP is responsible for Full Replacement Value (FRV) for all damaged and/or destroyed items.

1.0. Liability

1.0.1. The Full Replacement Value Act (US Code Title 10 §2636a) of 2003, allows the Secretary of Defense to include a clause for full replacement value (FRV) in rates filed and contracts with Transportation Service Providers (TSP). The Defense Reauthorization Act for FY2007 amended The Full Replacement Value Act and required the government to contract for FRV protection with all TSPs no later than 1 March 2008. This authorization also allows the government to deduct the value of outstanding claims of a TSP based on FRV from the amount due to a TSP if the TSP fails to settle that outstanding claim. All TSPs should include the cost of FRV coverage in the rates filed in DPS.

1.0.2. The delivering TSP is liable to the customer, to the customer's agent, or to the military service that contracted for the shipment, for loss or damage that occurs to the customer's personal property while it is in the custody of the TSP. Liability on all shipments will be determined in accordance with the Carmack Amendment to the Interstate Commerce Act, (Title 49, United States Code, Section 14706) unless a specific provision herein establishes a different rule or procedure

1.0.3. If the claim is filed directly with the TSP within nine months of delivery, then the TSP is liable for FRV. The TSP's liability will be the greater of

1.0.3.1. $5,000 per shipment, or

1.0.3.2. $4.00 times either the net weight of the HHG shipment or the gross weight of the UB shipment, in pounds, not to exceed $50,000.

1.0.4. If the claim is filed directly with the TSP more than nine months after delivery, then the TSP is liable for depreciated value, up to a maximum of $1.25 times the net weight of the shipment in pounds.

1.0.5. Payments by the TSP to an owner for inconvenience claims will not be deducted from the TSP's maximum liability for loss or damage, but are a separate liability (Refer to DTR, Part IV, Appendix B).

1.1. FRV Liability

1.1.1. If the customer files a claim against the TSP, within nine months of delivery, the TSP is liable for the repair or FRV cost of a damaged item, whichever is less, and for the FRV cost of lost, or destroyed items, unless one or more of the exclusions listed in Section 1.3, below, applies.

1.1.2. On these claims, the TSP's liability is as follows:

1.1.2.1. For items that are damaged but not destroyed, the TSP will, at its option, either repair the items to the extent necessary to restore them to their condition when received by the TSP,

or pay the customer for the cost of such repairs. The TSP is obligated to replace items that are damaged and not repairable.

1.1.2.2. For most items that are destroyed (i.e., the repair cost exceeds replacement cost) or lost, the TSP will, at its option, either replace the lost or destroyed item with a new item, or pay the undepreciated fair market replacement cost of a new item. New items should, to the greatest extent possible, be from the same manufacturer and should be the same make and model as the item that was lost or destroyed. If the TSP cannot find a new item that is the same as the item that was lost or destroyed, it may replace the item with one of comparable qualities and features. However, for lost or destroyed items that are parts of sets, such as a silver service, furniture, crystal glasses or china, the TSP may replace the lost item with a like item that matches the rest of the set. If the TSP is unable to match the item to the set, then the TSP is obligated to replace the entire set with a set of comparable qualities and features. Likewise, some items, such as collectable figures (e.g., Hummel and Lladro), collectable plates, collectable dolls, baseball cards, antiques, comic books, coin and stamp collections, and objects of art, cannot be properly replaced with new items because their value is based, in part, on the fact that they are no longer made and are no longer available for purchase as new items. For this type of item, the TSP may replace the lost or destroyed item with the same or comparable item or pay the replacement cost of the item. The list of items in this provision is not exclusive. The appropriate MCO may designate items for consideration under this provision. The TSP shall consult with the MCO for a determination on items that may be considered under this provision.

1.1.2.3. When FRV applies to a shipment that includes one or more motor vehicles (automobiles, motorcycles, mopeds, or motor scooters), the TSP's maximum liability for the vehicles shall be the value stated in the current issue of the N.A.D.A.'s Official Used Car Guide (the "Guide") for such vehicle(s), adjusted for mileage and other factors considered in the Guide. However, if either the customer or the TSP has obtained a pre-damage appraisal of the vehicle from a qualified appraiser, settlement will be based on the appraised value rather than the book value.

1.1.2.4. For boats, personal watercraft, ultra light aircraft, pianos, organs, firearms, objects of art, all-terrain vehicles, and snowmobiles, the TSP may replace the item with a comparable used item or pay the fair market value replacement cost. These items have an established and widespread secondary market and are not typically considered standard household items. As such, the list of items in this provision is not exclusive. MCO's may designate similar items for consideration under this provision. TSP's shall consult with MCO's for a determination on items that may be considered under this provision.

1.1.2.5. The customer may reject a payment, repair, or item offered by the TSP to settle a claim. If a customer files a claim, against the TSP within nine months of delivery, but fails to settle the claim directly with the TSPs involved in the shipment, the customer may transfer his claim to the MCO as provided in Section 2.1.2., the MCO may pay the customer pursuant to statutory and regulatory guidance and will seek to recover the FRV from the TSP. In cases where all or part of the claim has been transferred to the MCO, the TSP shall not have the option to repair or replace items in kind, but must pay to the MCO the repair cost or full replacement cost of a new item, whichever is less. If the TSP can show that they offered the customer a replacement item of

comparable or better quality than the item lost, the TSP's liability for that item will be limited to their replacement cost at the time offered (including tax or drayage).

1.1.3. Normally, all claims must be filed in DPS. Claims filed with a Military Claims Office (MCO) under the provisions of Section 2.2, below, will be forwarded to the TSP within nine months of delivery and within 30 days of receipt by the MCO if the claimant wants to settle the claim for FRV. If the TSP receives such a claim that has been forwarded by the MCO within nine months of delivery, the TSP will be liable for settlement under FRV guidelines. If the TSP receives such a claim from the MCO more than nine months after delivery, but it is postmarked or electronically transmitted within nine months of the delivery date, then the TSP will treat the claim as if it had been filed directly with the TSP within nine months and the TSP will be liable for settlement under FRV guidelines.

1.1.4. Replacement cost, whether depreciated or undepreciated, is based on the replacement cost at destination and includes shipping charges and sales tax. However, the TSP is not required to pay shipping charges and/or sales tax in excess of $10 on a claim until it receives proof that the charges and taxes were actually paid.

1.2. Actual Value (Depreciated) Liability

1.2.1. If the customer files a claim directly with the TSP or MCO more than nine months but within 2 years after delivery, the TSP is liable for the depreciated value of the items only up to a maximum of $1.25 times the net weight of the shipment in pounds. Liability will be as follows:

1.2.1.1. For items that are damaged but not destroyed, the TSP will, at its option, either repair the items to the extent necessary to restore them to their condition when received by the TSP, or pay the customer for the cost of such repairs, up to the depreciated value of the items.

1.2.1.2. For items that are destroyed (i.e., the repair cost exceeds the depreciated value) or lost, the TSP will pay the depreciated value for the item. However, if the customer is willing to accept a replacement item instead of cash payment, the TSP may settle all or part of a claim by delivering a replacement item(s) of like kind, quality and condition to the customer.

1.2.2. If the customer files a claim directly with an MCO, and does not want to file with the TSP for settlement, the military will adjudicate the claim pursuant to statutory and regulatory guidance. The MCO may then assert a recovery claim against the TSP. The TSP, on this type of a recovery claim, will be liable to the MCO for the depreciated replacement cost or repair cost, whichever is less. If the customer files a claim directly with an MCO, the TSP will not be liable for more than the depreciated replacement cost, not to exceed $1.25 times the net weight of the shipment, in pounds.

1.2.3. In settling claims for the depreciated replacement cost of an item, the MCO and TSP will use the Joint Military Industry Depreciation Guide for those items that are listed in the guide. The MCO and TSP will use the current replacement cost of the item as the base to apply the depreciation factor to arrive at the current actual value of the item. If an item cannot be replaced, or no suitable replacement is obtainable, the proper measure of damages for items that depreciate shall

be the original cost, adjusted upward to reflect the increase in the consumer price index (CPI) since the date of purchase, and then adjusted downward to reflect the depreciation rate in the Joint Military Industry Depreciation Guide.

1.2.4. Replacement cost is based on the replacement cost at destination and includes shipping charges and sales tax. However, the TSP is not required to pay shipping charges and/or sales tax in excess of $10 on a claim until it receives proof that the charges and taxes were actually paid.

1.3. Exclusions from Liability

1.3.1. The TSP shall be liable for physical loss or damage to articles that occurs while being transported or held in Non Temporary Storage EXCEPT loss or damage caused by or resulting from the following:

1.3.1.1. From an act or omission of the customer;

1.3.1.2. From defect or inherent vice of the article;

1.3.1.3. From hostile or warlike action in time of peace or war including action in hindering, combating or defending against an actual, impending or expected attack; from weapons of war employing atomic fission or radioactive force whether in peace or war; or from insurrection, rebellion, revolution, civil war, usurped power or action taken by governmental authority in hindering, combating or defending against such occurrence;

1.3.1.4. From seizure or destruction under quarantine or customs regulations; confiscation by order of any government or public authority; or risks of contraband or illegal transportation or trade;

1.3.1.5. From delay caused by strikes, lockouts, labor disturbances, riots, civil commotions, or the acts of a person or persons taking part in any such occurrence or disorder;

1.3.1.6. From Acts of God (also known as Acts of Nature);

1.3.1.7. From pre-existing infestations by mollusks, arachnids, crustaceans, parasites or other types of pests; and for fumigation or decontamination when not the fault of the TSP; or

1.3.1.8. From loss or damage that occurs prior to release to a TSP while the goods are in the possession of another TSP under an unrelated shipment of the goods. When a shipment is released from another TSP's control, the TSP that receives the goods for storage shall not be liable for an item claimed as missing which should have been listed as a separate item on the inventory, but which was not listed on the inventory that was prepared by the original TSP. However, the delivery TSP will be liable for items packed in cartons, if the carton is listed on the inventory, unless the delivery TSP can produce evidence to shift liability back to a prior handler and the item claimed bears a reasonable relationship to the contents of the carton listed on the inventory.

1.3.2. The TSP shall not be liable for intangible property, securities, nor for the sentimental value of an item nor shall the TSP be liable for pre-existing damage.

1.3.3. The exclusions listed above will not apply if the TSP's own negligence significantly contributed to the loss. However, if the TSP, after giving written or electronic notice to the appropriate government transportation office, or electronic or written notice to the customer, of a potential risk of loss or damage to the shipment from the above causes, is instructed by the government or the customer electronically or in writing to proceed with such transportation and/or delivery, notwithstanding such risk, the TSP shall not be liable for the loss attributed to the risk.

1.4. Duty to Mitigate Loss

1.4.1. If loss or damage occurs to a shipment from one of the excluded causes listed in Exclusions from Liability, the TSP may still be liable for additional damage that results from its failure to take reasonable steps to mitigate the extent of the loss. For example, if a shipment is damaged by water, the TSP, as soon as practical, should attempt to clean and dry the items, rather than allow further damage (e.g., rust, warping, or mildew), to develop from prolonged exposure to dampness. In some cases, the responsible PPSO/PPPO may direct the TSP to undertake specific mitigation work, or may authorize payment for mitigation work, subject to later determination of whether the government or the TSP will be liable for the cost. The cost of any such mitigation efforts not paid for by the government will be deducted from the TSP's maximum liability.

1.4.2. **Mold**. Shipments that develop mold in transit present special problems. When containers show signs of contamination, for example water saturation or mold growth on the exterior, the TSP should contact the responsible PPSO/PPPO by phone and via written notification (email preferred with Delivery and Read Receipt as proof of notification). The TSP will continue shipping operations to a location as determined by the TSP and responsible PPSO/PPPO. The responsible PPSO/PPPO will make arrangements for a Quality Assurance (QA) Inspector to be present at the selected location within two (2) business days to be present when the seals are broken and the containers inspected for mold. If the PPSO/PPPO is unable to provide a QA inspector, contact SDDC at usarmy.scott.sddc.mbx.pp-perf@mail.mil. If there is no evidence of mold, the containers will be resealed, notations made on the inventory by the QA inspector and/or the TSP, and shipment will continue in-transit to destination. When mold is discovered, the TSP will notify the customer and the inspecting PPSO/PPPO will notify the servicing MCO and update the destination PPSO/PPPO with findings. The TSP in possession at the time the mold is discovered is responsible for mitigation. Mitigation costs will be assessed under Paragraph 1.4.2.5. of this section.

1.4.2.1. ***Payment in lieu of remediation***. Prior to undertaking any remediation work, the TSP shall procure the services of a qualified mold remediation firm, if reasonably available, unless otherwise directed by the MCO or responsible PPSO/PPPO. The mold remediation firm shall make a preliminary assessment of the mold damage. The TSP will provide a copy of the estimate to all parties (e.g., destination PPSO/PPPO, MCO, and customer). After

consultation with the TSP, mold remediation firm, responsible PPSO/PPPO, and customer, the MCO shall determine whether circumstances warrant disposal of the contaminated items without attempting remediation. If the MCO determines that remediation is appropriate, there may be circumstances where customers will still refuse delivery. For example, a customer may choose to dispose of the property rather than accept the shipment because of a family member's "documented" medical condition. When the MCO determines that remediation is appropriate and reasonable under the circumstances, the TSP will only be liable for the lesser of the remediation cost or full replacement cost.

1.4.2.2. ***Delivery of Uncontaminated Items***. As soon as practical after it's determined that remediation is an option, the TSP will determine, after consulting with the mold remediation firm, whether there is an uncontaminated portion of the shipment that can be separated, without cross contamination, from the mold contaminated items and separate those items accordingly. If there are uncontaminated items, the TSP will make a new inventory of either the contaminated items or the uncontaminated items, whichever is smaller. The TSP will cross reference the new inventory with the corresponding reference from the origin inventory. The TSP will deliver any uncontaminated items in accordance with the transit agreement and provide a copy of the origin inventory and the new inventory to the customer.

1.4.2.3. ***Items Suitable for Cleaning or Remediation***. Whether mold contaminated items are suitable for cleaning or remediation depends upon several factors including, but not limited to, the extent of the contamination on a particular item, the nature of the material contaminated, limiting future contamination, and the cost of remediation in relation to the value of the item. If items are still wet, measures should be taken to dry all items suitable for cleaning or remediation. Heavily contaminated porous items (e.g., carpets, rugs, mattresses, cloth or clothing, some wood and wood products, some ceramic items, and soft plastic) may not be suitable for cleaning or remediation. Less heavily contaminated porous items (e.g. clothes and textiles) may be adequately laundered, however, contamination from mold may require adding bleaching agents to remove mold stains and sanitize clothing. Adding bleaching agents might fade some fabrics and damage other fabrics and be unacceptable to the customer. Mold-contaminated items made of leather, suede, or a similar material may not be suitable for laundering or bleaching. Other professional cleaning or dry cleaning may be an option. Other non-porous household items (e.g., dishes, pots, glass items, or other metal or hard plastic items) can usually be cleaned or remediated. Advice from remediation professionals on whether to clean or discard an item may be beneficial. The TSP will arrange for the contaminated items to be divided into items that are suitable for cleaning or other remediation and those items that are not suitable for cleaning or remediation. The customer and the QA inspector should be notified with date/time prior to the process.

1.4.2.3.1. If all contaminated items are suitable for cleaning or remediation, the TSP will notify the customer that the remainder of the shipment will be delivered when it has been cleaned or otherwise remediated. The delivery will not be considered a separate shipment.

1.4.2.3.2. If none of the contaminated items are suitable for cleaning or remediation, the TSP will notify the customer that none of the remainder of the shipment is suitable for cleaning or remediation. The TSP will offer the customer an opportunity to inspect the shipment and remove items of sentimental or special value at the owner's discretion in coordination with the responsible PPSO/PPPO. Before removal of any items, the TSP may require the customer to release them from personal injury liability for exposure to mold.

1.4.2.3.3. If some of the contaminated items are suitable for cleaning or remediation and some items are not suitable, then the TSP will notify the customer of that circumstance. The TSP will arrange for the cleaning or other remediation of that portion of the contaminated shipment suitable for cleaning or remediation. The TSP will arrange for delivery of the cleaned or remediated items in coordination with the customer and responsible PPSO/PPPO. The delivery will not be considered a separate shipment.

1.4.2.3.4. The TSP will offer the customer an opportunity to inspect the part of the shipment that is unsuitable for cleaning or remediation. The customer may remove items of sentimental or special value from the unremediated portion of the contaminated items, at the owner's discretion. Before removal of any items, the TSP may require the customer to release them from personal injury liability for exposure to mold. If a TSP is found liable for the loss and has not reached their maximum liability, 25% of the replacement value of any item that is removed from the unremediated portion of the contaminated items will be deducted from the TSP's liability. If the TSP's maximum liability is exceeded and the items removed do not decrease the TSP's maximum liability, there will be no percentage of value taken off the item. The TSP is responsible for appropriately disposing of the unremediated portion of the contaminated items.

1.4.2.4. ***Delivery of remediated items***. Items that have been remediated will normally be delivered to the customer as soon as practical after remediation is complete. Before delivery, TSP's must notify the customer and destination PPSO/PPPO that the items have been remediated, are ready for delivery, and provide a reasonable opportunity to inspect the remediated items before delivery transportation begins. The notice shall also include the location for inspection, the hours for inspection, and that the opportunity to inspect shall expire after three (3) business days or when delivery transportation begins, whichever is longer.

1.4.2.4.1. Customer inspects remediated items. If the customer accepts all remediated items, the goods will be delivered as soon as practical. If the customer does not accept the remediation on any item during the inspection, that item will be separated from the accepted items. If the TSP agrees with the customer that those items are unacceptable, the TSP shall deliver the accepted items and, if appropriate, process claims on the unacceptable items for compensation at Full Replacement Value. If the TSP disagrees with the customer on any item, the TSP will contact the destination PPSO/PPPO and advise them of the conflict. In the event of a conflict, no delivery of any remediated item, accepted or not, will be made until ordered by the destination PPSO/PPPO. The PPSO/PPPO will contact the servicing MCO and the MCO will determine the acceptability of the remediated items in question. The Service MCO can be found at : http://www.move.mil/dod/claims_css/dod_claims.cfm. .

1.4.2.4.2. Customer does not inspect remediated items. Some customers may decline to inspect or decline to respond to the notification to inspect remediated items and refuse to accept delivery of those items. If customers advise the TSP before delivery transportation begins that they will not accept the delivery, the TSP will not attempt delivery until ordered by the destination PPSO/PPPO. If customers refuse delivery of remediated items after delivery of those items begins, the TSP will transport those items to a DOD approved storage facility at the TSP's discretion. In either case, the TSP will notify the destination PPSO/PPPO of the situation and await further direction. The destination PPSO/PPPO will contact the servicing MCO and the MCO will determine the acceptability of the remediated items in question. Each MCO will designate a single centralized authority for these determinations.

1.4.2.4.3. MCO acceptability determinations. The MCO will notify the customer and TSP of the acceptability determination.

1.4.2.4.3.1. Remediation Unacceptable. When the MCO determines that remediation efforts on items are unacceptable, the TSP shall dispose of the unacceptable items.

1.4.2.4.3.2. Remediation Acceptable. The MCO will notify the customer when remediation efforts on items are determined to be acceptable and advise that further refusals to accept delivery of the acceptable items may result in a denial of any claim for loss or damage to those items. If the customer elects to accept delivery, the MCO will notify the destination PPSO/PPPO and they will direct the TSP to complete delivery of the acceptable items. If the customer still refuses delivery, the MCO will electronically notify the destination PPSO/PPPO and TSP that the customer still refuses delivery and the destination PPSO/PPPO will direct the TSP to dispose of the items.

1.4.2.5. ***Accessorial Services payments for mold contamination***. Costs associated with mold remediation will normally be at the expense of the TSP, however, accessorial service payments may be authorized under limited circumstances. Accessorial services for mold mitigation will normally be authorized when the mitigating TSP is not liable for the damage. MCO's will determine liability. Other factors that may warrant accessorial service payments include, but are not necessarily limited to, the number and size of contaminated shipments, the extent of contamination, the availability of mitigation/ remediation services in the location, and the actions of the customer. Types of accessorial services that may be involved with mold mitigation/remediation include, but are not necessarily limited to SIT, preparation of new inventories, repacking, container costs, mold remediation firm services, estimate fees, drayage, TSP remediation costs, refused delivery charges, and disposal.

1.4.2.5.1. Destination PPSO/PPPO will approve accessorial service payments to TSP's for the cost of government ordered testing or inspection or other charges occasioned by such orders when no outward indicia of mold is present on the shipping container(s) and no mold is found in the container(s).

1.4.2.5.2. Code J, Code T and Code 5 mold contaminated shipments. Destination PPSO/PPPO will approve accessorial service payments to TSP's for mold remediation in all Code 5, Code J and Code T mold contaminated shipments regardless of liability, and on

shipments where the TSP has been relieved of liability, up to the TSP's maximum liability for that shipment. If the TSP is determined to be liable for the damages in a Code 5, Code J and Code T shipment, the Government will recover the payment either through voluntary refund from the TSP, offset, or through the claims process.

1.4.2.5.3. SIT before and during remediation on all other shipments. This service is normally at the expense of the TSP except for Code J, Code T, Code 5, or after a determination that the TSP is not liable.

1.4.2.5.4. Disposal after payment in lieu of remediation. Destination PPSO/PPPOs will approve accessorial service payments for TSP's disposing of mold contaminated items when the TSP has made a payment to the customer in lieu of remediation and the TSP has exceeded their maximum liability on the shipment.

1.4.2.5.5. Disposal after refused delivery. Destination PPSO/PPPOs will approve accessorial service payments to TSP's for refused delivery charges after remediation and the cost of disposal, when the customer refuses delivery if both of the following have occurred: 1) The MCO has determined that the refused delivery was unreasonable under the circumstances, and 2) the TSP has exceeded their maximum liability on the shipment.

1.5. Time Limitations on TSP Liability for Loss and Damage Claims

1.5.1. If the customer submits the claim to the TSP within nine months of delivery, the TSP, subject to the exclusions stated in Section 1.3, above, will be liable for the full, undepreciated replacement value on all lost or destroyed items, as specified in Section 1.1, above. Customers may transfer all or part of their claim to an MCO 30 days after filing the claim with the delivering TSP, provided that:

1.5.1.1. The claim has sufficient information upon which the TSP can reasonably adjudicate it. A claim is sufficient if it identifies the customer; contain facts sufficient to identify the shipment or shipments involved; asserts a demand for a specific or determinable amount; and specifies the items lost or damaged; and.

1.5.1.2. The customer has considered and responded to any offer of settlement made by the TSP, and;

1.5.1.3. The claim has not been fully satisfied or settled.

1.5.2. A claim may be transferred to an MCO before 30 days, and the TSP will remain liable for FRV if the following occur:

1.5.2.1. The customer receives notice that the TSP has made a final offer on a portion of the claim, denied a portion of the claim, or denied the claim in full. The claimant may transfer those portions of the claim denied or for which they received a final offer and are not in agreement.

1.5.2.2. The customer receives official notice from SDDC or the MCO that the TSP is in bankruptcy.

1.5.2.3. The customer receives official notice from SDDC, the MCO or a PPSO that the TSP has been placed in permanent, world-wide Non-Use status or the TSP's approval has been revoked, or contract terminated by SDDC.

1.5.2.4. The TSP fails to comply with the catastrophic loss provisions in Section 2.10, below, as verified by the MCO.

1.5.2.5. The TSP fails to comply with essential items provisions in Section 2.11, below, as verified by the MCO.

1.5.3. Claims filed within nine months of receipt of loss/damage but transferred to an MCO are still eligible for FRV.

1.5.4. The TSP will not be liable for loss or damage unless the customer either files a claim directly against the TSP within two years of the final delivery of the shipment that included the lost or damaged items, or files a timely claim against the United States and submits it to a MCO under the Military Personnel and Civilian Employees Claims Act (PCA).

1.5.4.1. For the purposes of either the 9 month time limit for filing against the TSP or the two-year limit for filing against the TSP or the United States, if a claim accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President. An extension granted by this provision may be longer at the discretion of the TSP. If the TSP anticipates denying an extension, they must contact the MCO for a decision on whether the 9 month or two year limit should be extended under this provision. Timeliness will be determined by the MCO based on the service's claims regulations and instructions.

1.5.5. If the customer files a claim with an MCO, the TSP will not be liable to the government on a recovery claim if the government does not dispatch a written demand to the TSP within four years of delivery. This four-year period will be extended by any period granted as per Section 1.5.4.1 above. If the government does dispatch a written demand to the TSP within four years of delivery, the government will have the normal six years specified in Title 28, United States Code, Section 2415, to resolve the claim or take administrative remedies.

1.5.6. If a customer files a claim directly with the TSP and then receives written or electronic notice from the TSP that all or part of the claim has been denied, then the customer may either file suit against the TSP within two years of receipt of the notice or may transfer the claim to the appropriate MCO. If a recovery claim is not filed by an MCO against the TSP within four years of delivery, including extended periods as per Section 1.5.4 above, or the customer's suit is not instituted within two years of receipt of the written notice, then the TSP shall not be liable for any part of the claim that was denied in the notice.

1.6. Liability for Goods in Storage

1.6.1. The TSP's responsibility for a shipment and its liability under the bill of lading or service order for a shipment in NTS or SIT shall terminate, and the warehouse shall become the final destination of the shipment, on midnight of the day specified in the notice which the storage TSP receives through DPS from the PPSO advising that the government nature of the shipment will terminate. The notice of termination is not retroactive. This notice of termination can be rescinded not later than one business day prior to the effective date of the termination.

1.6.2. The government will pay the TSP for all NTS or SIT costs, up to and including the day of termination. Once termination, in accordance with Section 1.6.1, above, has occurred, the government may not revive the TSP's liability under the original bill of lading or service order, or reinstate the original bill of lading or service order. If after termination, the government wishes to continue the government's payment for continued storage, the government must enter into a new contract with the warehouse and/or issue a purchase order or new bill of lading for delivery and additional services needed after the termination notice.

1.6.3. In the event that NTS or SIT converts to the customer's expense, the TSP is required to provide a copy of the Joint Inspection Form, (i.e., rider to the inventory or exception sheet) if a joint inspection occurred and it is requested by the MCO.

1.6.4. **Goods booked into storage before 1 March 2008.** Contracts for Non-Temporary Storage (NTS) of goods negotiated after 1 March 2008 must include liability provision for full replacement value (FRV). Goods stored under NTS contracts negotiated before 1 March 2008 may contain liability provision limiting TSP liability to depreciated value for losses or damage. Renegotiation of depreciated value contracts after 1 March 2008 must provide for FRV liability. Any such renegotiated contract will cause the NTS TSP to be liable for FRV for any damage suffered by the goods while in storage with that NTS TSP. If the NTS TSP can demonstrate through clear and convincing evidence that the damage occurred prior to the renegotiation of the rates to FRV rates, then the NTS TSP will only be liable for the damage in accordance with the contract or TOS in effect immediately prior to the renegotiation of the rates.

1.7. High Value Items and High Risk Inventories

1.7.1. High value/high risk items may include but is not limited to currency, coins, jewelry, silverware and silver service sets, crystal, figurines, furs, objects of art, computer software programs, manuscripts, comic books, baseball cards, stamps, and other collectable items or rare documents that have a value in excess of $100 per pound. For purposes of determining the TSP's liability, all such items shall be deemed to weigh at least one pound. A collection of compact disks (CDs) and digital video disks (DVDs) will not be considered high value/high risk items. However, individual CDs or DVDs with a value in excess of $50 will be considered a high value item.

1.7.2. The TSP's liability for high value items shall be limited to $100 per pound of the article, if the customer fails to inform the TSP that such items are included in the shipment after the TSP asks the customer, in writing, to list items in the above categories that will be included in the shipment.

In order to account for such items, and in order to facilitate special handling of such items, the TSP may use a separate high-risk/high-value inventory. Items such as CDs, video tapes and DVDs that do not qualify as high value items for purposes of this provision limiting liability may be included on a high-risk/high-value inventory.

1.7.3. A high risk/high value inventory form, even if it is signed by the customer upon delivery and fails to note shortages at delivery, will normally be treated as other inventories for purposes of determining whether there was loss or damage in transit. The 'Notification of Loss/Damage AFTER Delivery' form, that gives the TSP notice of later discovered loss or damage would overcome the presumption of correct delivery, even of high value items listed on a special inventory, unless all of the following conditions are met:

1.7.3.1. If the high risk/high value inventory form has a block to denote delivery, the customer must initial each block for each item. A check mark or an "x" is not sufficient.

1.7.3.2. The high risk/high value inventory form must contain a warning, in bold font larger than other fonts on the form, that if the customer notes on this inventory that an item was delivered, he or she may never claim that the item was missing with either the TSP or with an MCO.

1.7.3.3. The delivering TSP must attest in writing that, just prior to departure from the residence, the TSP and the customer opened all containers in which the high risk/high value items were packed; that they removed the items from the containers; that they physically inspected each item; and that the TSP advised the customer of the consequences of signing the high risk/high value inventory form.

1.8. Transfer of Custody of Shipments

When custody of a shipment is transferred from one TSP to another, the delivering TSP will furnish the receiving TSP two legible duplicate copies of the shipment inventory. The receiving TSP will have the option, at no cost to the government, to conduct a joint inspection of every item and/or carton on the inventory, including cartons or items in a crate regardless of whether the crate is damaged or the seals are intact. This is the only way for the receiving TSP to assure that it has accounted for all items on the inventory and to assure there are no overages. If, at the time each item is checked, there is a difference in the condition of the items from what is listed on the shipment inventory, the receiving TSP will prepare an exception sheet noting the condition of the containers or to specific cartons within the containers, or other specific items in the shipment and use a rider noting thereon any shortage/overage, or differing conditions, cross-referenced to the original shipment inventory. If no new loss or damage is discovered, an exception sheet will be prepared stating, "No differences noted," signed and dated by the receiving TSP and the delivering TSP's driver. In the event the opinion of the delivering TSP's driver and the receiving TSP differ, both opinions will be listed on the rider and separately identified. Both the delivering and receiving TSP will sign and date the exception sheet/rider, each retaining a legible copy for their files. In the event a claim is filed, each TSP receiving the goods from another TSP will furnish legible copies of the exception sheet/rider to the customer or MCO, upon request.

2.0. Claims

Claimants must ordinarily file their claims in DPS. Claims Management in DPS enables the customer to work directly with the TSP to obtain settlement for any loss, destruction, or damage to their belongings while the goods were in the possession of the TSP. DPS will manage all required correspondence and provide online access to all necessary claims processes. For claims not filed in DPS refer to Paragraph 2.2.

2.1. Claims Filing

2.1.1. Customers whose property is lost, destroyed or damaged in transit and who wish to file against the TSP must file their claims within two years of delivery of the shipment that gave rise to the claim. For the purpose of the two year limit for filing claims, either directly against the TSP in DPS or against the United States through a MCO, if a claim accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President. An extension granted by this provision may be longer at the discretion of the TSP. If the TSP anticipates denying an extension, they must contact the MCO for a decision on whether the 9 month or two year limit should be extended under this provision. This extension provision will apply to the 9 month filing requirement to qualify for FRV. Timeliness based upon extensions under this provision will be determined by the MCO based on the service's claims regulations and instructions.

2.1.2. If the customer submits the claim in DPS against the TSP within nine months of delivery, the TSP, subject to the exclusions stated in Section 1.3, above, will be liable for the full, undepreciated replacement value on all lost or destroyed items, as specified in Section 1.1, above. If a claim has not been completely settled by the delivering TSP within 30 days after submission of information necessary to settle the claim, customers may transfer all or part of their claim to a MCO in accordance with Paragraph 1.5. Claims filed within nine months of delivery but transferred to an MCO are still eligible for FRV.

2.1.2.1. A claim may be transferred to a MCO before 30 days after submitting information necessary to settle the claim, and TSP will remain liable for FRV if the provisions of paragraph 1.5.2. are met.

2.1.3. When a customer transfers a claim to the MCO, the MCO must contact the TSP to determine if the TSP has already obtained estimates, and request copies of claims negotiation or settlement documents relevant to the MCO claim. The TSP shall transmit any requested documents relevant to the MCO claim to the requesting MCO within 2 business days, by fax or electronic mail. If the TSP has not already obtained estimates, the MCO may give the TSP until the next business day to decide if it will inspect and obtain estimates on those items requiring estimates, and make arrangements with the customer and repair firms for the estimates. If the TSP decides to inspect and obtain estimates, it will have until the 7th business day after it is contacted to obtain them unless the

customer agrees to give it more time. If the TSP is unable to obtain estimates within 7 business days of being contacted and the customer does not agree to give TSP more time to do so, then the MCO will proceed to adjudicate and settle the claim.

2.1.4. The MCO may assert a demand against the TSP for the TSP's liability as established under Sections 1.1 and 1.2, above. The TSP will not be liable on such a recovery claim for payment on items for which the TSP has already paid the customer, if the correspondence between the TSP and the customer lists the item as one on which payment is being made and clearly indicates that the prior payment was in full and final satisfaction of either the entire claim, or was in full and final satisfaction of the claim for the particular item.

2.1.5. For purposes of qualifying for FRV and for meeting the two-year time limits for filing claims directly with the TSP, a claim submitted directly by the customer to the TSP must be submitted, subject to the exclusions stated in Section 2.2, below, within the relevant time period (nine months or two years). The claim must identify the customer; contain facts sufficient to identify the shipment or shipments involved; must assert a demand for a specific or determinable amount of money; and must specify the items lost or damaged.

2.1.6. The nine month limit for obtaining FRV and the two year limit for filing the claim are met for all TSPs handlers of the goods in a shipment, if the claim is filed with the delivering TSP within the nine month or two year time limit. This provision also applies if goods have been in the custody of one or more TSPs that are not acting as agents of the delivering TSP (e.g., Code 3 shipments, delivery out of NTS by other than the warehouse, or DPM shipments). If the delivering TSP believes that some of the loss or damage occurred while the goods were in the custody of a prior TSP, then the delivering TSP must notify the claimant that they are settling for the items for which they are legally liable and denying the other items because another TSP is liable for the damage to or loss of the remaining items. Regardless of the language on any settlement letter or check, if a TSP asserts that another TSP is liable for loss or damage, such assertion may be challenged by presentation of evidence to the contrary by either the customer or the MCO, with the TSP making the denial having full rights of rebuttal and/or appeal if setoff occurs.

2.2. Exceptions to Filing in DPS

2.2.1. Exceptions to the requirement that a customer file claims in DPS against the TSP will be granted on a case by case basis, in writing, by the MCO. Government assistance will be available to overcome most issues with regard to the automated claims process in DPS. In cases where an exception has been granted, TSP's are responsible for accepting, processing, and paying non-DPS claims consistent with these business rules. Approved non-DPS claims, submitted within the appropriate time limits, shall receive applicable FRV. Examples of situation that may warrant an exception under this provision include, but are not limited to:

2.2.1.1. Customer has no access to a computer or the internet.

2.2.1.2. The claim is made on behalf a deceased customer (Bluebark shipment).

2.2.1.3. Customer has language barriers or communication disabilities.

2.2.2. Filing a claim with the delivering TSP will satisfy the requirement for all TSPs and warehouses in the chain of custody of the claimed item that a claim must be filed directly with a TSP to maintain the entitlement the customer has to settlement on the basis of FRV.

2.2.3. When claims are not submitted through DPS , the customer will use the DD Form 1844, List of Property and Claims Analysis Chart, or electronic facsimile thereof, when submitting a claim to the delivering TSP or MCO

2.2.4. Except for rules that specifically apply to claims filed in DPS or processed in DPS, these rules shall apply to claims not filed in DPS.

2.3. Substantiation of Claims

2.3.1. Introduction. In addition to the requirements to meet timely filing, claims must include information for the TSP to begin the settlement process. On all claims, this information will include notices of damages or loss that were found after the day of delivery and not previously provided to TSP; sufficient information about the shipment to enable the TSP to locate its copy of the bill of lading or service order; an inventory number for the damaged or lost item if that item has an inventory number associated with it; a description of each item that is lost; and a list of each item that is damaged stating the nature, location, and extent of the damage, and a determinable amount. The description of items lost or damaged must also list the approximate date of purchase of each item, or for items that were not purchased (e.g., gifts or bequests), the approximate date the customer acquired the item, the age of items that were not acquired when new.

2.3.1.2. For claims filed directly with the TSP, the TSP is responsible for obtaining repair estimates or replacement cost estimates required to settle the claim. The TSP may request the assistance of the closest MCO to obtain the name of reputable repair firms. If the TSP is still unable to obtain a repair or replacement estimate on an item, it may ask the customer to obtain the estimates, provided that the TSP agrees to pay all estimate fees and drayage costs that are incurred, even if the final settlement does not include payment for that item. If the customer is unable or unwilling to get the estimate(s), the TSP must adjudicate the claim without them based on other evidence in the file. The customer must cooperate with reasonable requests from the TSP in making items available for repair or for repair estimates. If the customer does not cooperate, the TSP should seek assistance from the closest MCO of that customer's military service. If the customer still does not cooperate, the TSP may delay settlement on those items that need estimates until the customer makes the items available. If the MCO finds that the delay was for good cause, it may request that SDDC adjust the claims settlement timeline within DPS to ensure the TSP is not penalized for the delay. The good cause for delay is not limited to a lack of customer cooperation in making items available for repair or estimates, but may also include inadequate information to identify items and other circumstances to be determined by the MCO.

2.3.1.3. For claims that are not filed within nine months of delivery, but are correctly filed per Section 2.1 above, the TSP may require the customer to provide repair or replacement estimates on any item(s) for which the amount claimed exceeds $100.

2.3.2. Internal Damage Rule

If the claim includes repair of internal damage to appliances or electronic items, and there is no new external damage noted to the item, the claim must be supported by additional substantiation regardless of the amount claimed. For these items, the customer must submit both a written statement, (which may include other relevant evidence (e.g., video tape of the functioning item)) explaining how they know the item was working when tendered to the TSP, along with an estimate of repair that includes both an explanation of the damage and a statement by the repair technician as to their opinion of the cause of the damage. For claims filed directly with the TSP, the same information will be required to establish that the loss or damage occurred in transit. However, on those claims that are filed directly with the TSP within nine months of delivery, the TSP will attempt to obtain the repair estimate, including the repair technician's opinion as to the source of damage, and will have the right to request assistance from the customer as stated in Section 2.3.1.2., above.

2.3.3. Notice of Loss and Damage

2.3.3.1. When unloading or unpacking articles at destination, the delivery TSP will, in coordination with the customer, check the inventory prepared at origin and inspect each article for loss or damage. The delivering TSP will, along with the customer, record loss and damage on a 'Notification of Loss/Damage AT Delivery' form. The 'Notification of Loss/Damage AT Delivery' form will indicate differences in count and condition from that shown on the inventory prepared at origin and will be jointly signed by the delivering TSP and the customer. The TSP will provide a toll-free number and email address that the customer can use to contact the TSP or mail a claim. For split shipments or partial deliveries, a separate 'Notification of Loss/Damage AT Delivery' form will be completed whenever property is delivered to the customer.

2.3.3.2. Loss or transit damage discovered after delivery shall be listed on the 'Notification of Loss/Damage AFTER Delivery' form, unless the damage or loss is entered into DPS per Section 2.13 below. In either case, the delivering TSP shall accept this form or entry as overcoming the presumption of correctness of the delivery receipt, if it is transmitted or postmarked within 75 calendar days of delivery. Notice shall not be required if a claim is filed with the delivering TSP within 75 calendar days of delivery. Neither the 'Notification of Loss/Damage AT Delivery' nor the 'Notification of Loss/Damage AFTER Delivery' forms are conclusive; both can be rebutted by other evidence. Timely submission of the 'Notice of Loss/Damage AFTER Delivery' form to the delivering TSP shall be considered timely notice to all TSPs in the chain of custody of the items listed on the form.

2.3.3.2.1. The TSP shall update DPS that delivery has been completed within 3 business days after said delivery. If the TSP updates DPS within 3 business days after delivery, the 75 day notice period shall start on the day after delivery. If the TSP fails to update DPS within 3 business days after delivery, the 75 day notice period will begin the day after the TSP updates DPS that delivery has been completed

2.3.3.3. If notice of loss or damage of household goods is postmarked or transmitted to the delivering TSP more than 75 calendar days after delivery, or the notice of loss and damaged items is not submitted to the TSP in DPS within 75 days of delivery, the loss or damage on that notice will be presumed not to have occurred while the goods were in the possession of the delivering TSP unless there is good cause for the delay, as determined by the appropriate MCO. Good cause may include, but is not limited to, officially recognized absence or hospitalization of the customer during all or a portion of the period of 75 calendar days from the date of delivery. In case of recognized official absence, the appropriate MCO will provide the delivering TSP with the proof of the officially recognized absence, and the additional days granted shall not exceed the period of official absence. If a member requests an extension of the 75 day notice period, the TSP will contact the appropriate MCO before denying any part of the claim for lack of timely notice.

2.3.3.4. The delivering TSP's failure to provide the forms for the 'Notification of Loss/Damage AT Delivery' and 'Notification of Loss/Damage AFTER Delivery' to the customer and to have proof thereof will eliminate the requirement for notification to the delivering TSP and all TSPs that handled the goods in the shipment. Notice using the 'Notification of Loss/Damage AT Delivery' and the 'Notification of Loss/Damage AFTER Delivery' forms are not required by the delivering TSP in the case of major incidents, requiring the delivering TSP to notify the Military Surface Deployment and Distribution Command and appropriate Personal Property Shipping Office (PPSO) of the incident. Such incidents include fire, pilferage, vandalism, and similar incidents that produce significant loss, damage, or delay.

2.3.3.5. Valid evidence that the MCO or the delivering TSP shall consider, along with timely notification, in determining whether or not a customer has sustained loss and/or damage in the shipment include, but are not necessarily limited to, the inventory prepared at origin and the delivery receipt.

2.3.4. Inspection by the Transportation Service Provider

2.3.4.1. The TSP may inspect the damaged items at any time prior to settlement of the claim after coordinating with the customer on a convenient time. However, the TSP may not deny a claim solely on the basis that it was unable to inspect any item. If the customer has repaired an item before the TSP's inspection, the customer must provide the repair bill or some other evidence of the damage and repair cost to the TSP. If the customer has disposed of a damaged item, the customer must give the TSP evidence that the item was damaged beyond economical repair or was a potential health hazard to the claimant or the claimant's family.

2.3.4.2. If a customer calls the TSP before a claim is settled and asks the TSP to inspect or give permission to dispose of items, the TSP will, within two business days after being contacted, notify the customer that either the items will be inspected or that the customer may dispose of the items. In such cases, if the TSP gives notice that it will inspect the items, it will do so within 45 days of being contacted by the customer unless the customer grants a further extension.

2.3.4.3. If the customer refuses to permit the TSP to inspect or is non-responsive to the request to arrange an inspection after reasonable effort by the TSP or its repair/inspection firm, the TSP must contact the appropriate MCO and request assistance in arranging an inspection of the

goods. If the customer causes a delay by refusing inspection, the TSP shall be provided with an equal number of days to perform the inspection, for example, 45 days plus delay days caused by a customer.

2.3.5. Repair Estimates

2.3.5.1. The TSP will be responsible for paying for repair estimates required to process claims that are filed with the TSP by the customer. TSP's must provide the customer copies of any estimate used to support an offer of settlement, if requested by the customer. Redactions of proprietary information are permissible before providing estimate copies. In accordance with service regulations, the MCO will be responsible for paying repair estimates required to process and substantiate claims that are filed with the MCO by the customer. As noted previously, if a claim is presented to the MCO or transferred to the MCO by the customer, the MCO must, prior to settlement, contact the TSP to obtain estimates and any copies of claims negotiation or settlement documents related to the claim. The TSP must provide those documents within 2 business days. The TSP is responsible for paying all estimates and associated fees presented by a MCO as a result of claims that were transferred to the MCO by the customer pursuant to Section 2.1, above, unless:

2.3.5.1.1. The TSP previously provided a reasonable estimate; or

2.3.5.1.2. The TSP previously offered to pay the customer a value that matches or exceeds the repair cost for all items on the estimate; or

2.3.5.1.3. The item damaged is repairable and the TSP offered to repair it at no cost to the member; or

2.3.5.1.4. The TSP previously offered to pay the replacement cost or to replace the damaged item in kind.

2.3.5.2. All estimates provided by the TSP must identify a repair firm that is willing and able to make the repair within a reasonable time for the amount stated. The repair firm must be reputable and provide timely and satisfactory performance. All such estimates must be itemized.

2.3.5.3. If an MCO receives an itemized repair estimate from the TSP before a claim is settled, then the MCO will use that estimate provided that it is the lowest overall, and meets the criteria described in Section 2.3.5.2, above. If the TSP's estimate is the lowest overall estimate and is not used, the MCO will advise the TSP in writing of the reason the lowest overall estimate was not used in determining the TSP's liability.

2.3.5.4. If the TSP sends the appropriate MCO a lower repair estimate after the recovery demand on the TSP has been dispatched to the TSP's home office, it will be considered in the TSP's recovery rebuttal or appeal process if lower than the estimate used by the MCO and if it establishes that the estimate submitted by the customer was unreasonable in comparison with the market price in the area or that the price was unreasonable in relation to the value of the goods prior to being damaged.

2.3.5.5. If a TSP has made an inspection/estimate based upon the 'Notice of Damage AFTER Delivery' form and the customer subsequently updates the notice within the 75-day time-limit, the TSP is authorized to make an additional inspection/estimate. The TSP will contact the MCO to determine if it will authorize a deduction of $75.00 or actual inspection cost, if less, from the TSP's liability for performing the second inspection/estimate.

2.3.5.6. Repairs must be made to the reasonable satisfaction of the customer. The TSP must initiate repair by a qualified repair firm within 30 days of settlement and the TSP must provide the name of the repair firm that will be doing the work, if requested by either the MCO or the customer.

2.4. Settlement of Loss and Damage Claims

2.4.1. On loss and damage claims, the TSP shall pay, deny, or make an offer within 60 days of receipt of a complete, substantiated claim. These rules authorize settlement for repair of damaged items that are capable of being repaired and replacement of items that are damaged beyond economical repair or lost. Customers are not required to accept any other settlement options.

2.4.2. The TSP will issue payment to the customer or initiate repair of items within 30 days of receipt of notice that the customer has accepted a full or partial settlement. Failure to issue payment within 30 days of notice of acceptance of settlement may constitute reason for convening a TSP Review Board and action may be taken against the TSP up to and including disqualification from the DOD Personal Property Program.

2.4.3. In those cases where more than one TSP may be responsible for the loss, an earlier TSP that receives a claim from the delivery TSP shall have 60-days for payment, denial or a final written offer, beginning on the date of receipt of the claim from the delivery TSP. The claimant may transfer a claim to an MCO after 30 days of filing their original claim regardless of whether the claim is transferred to an earlier TSP.

2.4.4. A claim for an item is settled in DPS when:

2.4.4.1. The customer accepts a final offer of settlement, the TSP issues a payment, and the value of the payment has been finally transferred to the customer or funds electronically deposited in the customer's bank account; or

2.4.4.2. The customer transfers the claim for that item to the MCO.

2.4.5. A claim for an item is settled outside of DPS when:

2.4.5.1. The TSP has made a final offer of settlement in writing that lists the amounts being offered for specific items; and

2.4.5.2. The customer accepts a final offer of settlement on the specifically listed items in writing, the TSP issues payment, and the value of the payment has been finally transferred to the customer; or

2.4.5.3. The customer declines a final offer of settlement of specific items in writing.

2.4.6. A claim for an item is also settled when the TSP denies the claim for that item in DPS, or in writing for claims filed outside of DPS.

2.4.6.1. Denial of a claim by the TSP does not necessarily extinguish TSP liability. Customers may file claims for items denied by the TSP with the MCO.

2.4.7. Electronic mail is considered a form of writing under these rules.

2.5. Partial Settlements.

Customers may find final offers of settlement acceptable on some items and unacceptable on other items. Customers may take payment on the acceptable parts of the final offer and may decline the unacceptable parts of the offer of settlement. The TSP must issue payment to customers on the portions of any final offer that the customer accepts. The TSP shall not be liable for any further claim for loss or damage on any item for which the TSP has settled the claim in accordance with paragraph 2.4.

2.5.1. The TSP is required to make an initial written offer or denial to the customer/claimant for each separate item claimed as lost or damaged. The TSP is not permitted to condition its offer for any item on the claimant's acceptance of its offer or denial on any other item or items. The claimant may accept the offer for some of the items, and reject the offer or denial for other items and transfer the claim for those items to the MCO. This is a partial settlement. The customer does not have to transfer denied items to the MCO, in order for a claim to be considered settled.

2.5.2. After receipt of the initial written offer from the TSP, the claimant may initiate negotiation in order to attempt to increase the amount offered for some or all items, or to change the form of the offer (e.g., to substitute a cash payment for an offer to repair). During negotiation the claimant or the TSP may propose that the amount offered for some items be increased in exchange for the claimant's acceptance of the offer or denial on other items. The claimant or the TSP may also propose a settlement in which a lump sum is paid to settle the entire claim, without a separate amount offered for each separate item. The TSP shall reduce to writing any agreement reached based upon these negotiations and each party shall sign the agreement. The agreement shall clearly state in **BOLD FACE** type that entering into the agreement may preclude the claimant from any payment on a claim against the MCO for any or all items covered by the agreement. The TSP shall provide a copy to the customer. The claimant may at any time cease negotiation and accept or reject the initial offer or denial for each separate item, and transfer the claim for the remaining items to the MCO.

2.5.3. If and only if the claimant and the TSP have settled every separate item in the claim, or the Claimant and the TSP have entered into a lump sum settlement, may the claimant and the TSP enter into a full and final settlement agreement. If the claimant has not previously accepted the TSP's offer or denial for every separate item, or accepted a lump sum settlement, the TSP may not submit for the claimant's signature on any document (to include a settlement check)purporting to be a full

and final settlement of the entire claim. Neither the claimant nor the Government will be bound by such a purported agreement.

2.6. Quick Claim Settlement

TSPs may establish a quick claim settlement procedure to quickly resolve and pay claims for minor loss or damage discovered at the time of delivery that would preclude the requirement for a claimant to file a claim for those items in DPS. Such procedures may cover payment for an aggregate amount not to exceed $500, with full payment made within 5 calendar days of delivery. The process of settling and paying such claims will be left to the discretion of each TSP. However, a small claim settlement agreement can contain only a limited release of liability and must specifically list the items and the damage for which payment is being made. Customers must be advised that they may still file claims for loss or damage discovered after delivery. A copy of the settlement agreement must be made available to the appropriate MCO on request. If the customer receives a quick claim settlement and then files an additional claim, the customer may not file an additional claim for items that he settled through the quick claim process.

2.7. Salvage

2.7.1. To the extent not prohibited by law or agreement, the TSP is entitled to take possession of and sell for salvage a damaged item on which the TSP has agreed to pay either the depreciated or full (i.e., undepreciated) replacement cost, or replaced the damaged item with a new item, including sets under paragraph 1.1.2.2. If the customer wishes to retain an item for which the TSP has agreed to pay replacement cost or replace the damaged item with a new item, he may make a counter offer to accept a lesser amount of money from the TSP in exchange for the TSP waiving salvage rights. The TSP is not required to accept such counteroffers. There is no fixed amount or percentage by which the TSP's liability will be reduced if it agrees to waive salvage. This provision is distinguished from, not applicable to, the situation referenced in Paragraph 2.7.7, in which the item or items in question were disposed of before settlement.

2.7.2. If the TSP pays a customer the depreciated or the full (i.e., undepreciated) replacement cost of a lost item, and the lost item is subsequently located, the TSP must notify the MCO and the customer for instructions. The customer may then decide either to request or decline delivery of the item(s). If the customer elects to receive a found item, the customer must refund the amount paid on that item through the claims process. If the customer declines delivery of the item, the TSP may retain the item(s) for salvage.

2.7.3. If the TSP locates an item within 60 days of receipt of notice of the loss, and a claim on that item has not yet been paid, then the customer will be obligated to accept delivery of the item in lieu of a claim, even if the customer has already replaced the item. In addition, if the TSP locates a lost item more than 60 days after receipt of notice of the loss, but the item has not been replaced, and a claim on the item has not been paid, then the customer will be obligated to accept delivery of the item in lieu of a claim. If a lost item is later discovered with damage, the time limits for qualifying for FRV protection and for on-line filing claims on that item will not commence until the delivery of that item. Notwithstanding the above, essential item(s), as described in Section 2.11, below, that

a reasonable person would and has replaced promptly may be declined by the customer before the 60 day period has run. This provision applies only when:

a. The item has been missing for at least seven (7) days from the date of delivery and the TSP has been notified pursuant to Section 2.11, below;

b. The item is necessary for daily life, such that it must be replaced within 2 business days of notice to TSP; and

c. The item has in fact been replaced.

2.7.4. The TSP must take possession of salvage items, at the customer's residence, or other location acceptable to the customer, not later than 30 days after receipt of a complete claim from either the customer or the MCO. However, in no case will the 30-day period for the TSP to take possession end until after the period allowed for the TSP's inspections. The 30-day pickup period can be extended by an agreement between the TSP and the customer in writing. If the customer refuses to cooperate with the TSP in the exercise of salvage rights, the TSP should contact the appropriate MCO closest to the customer and request assistance, and the 30-day deadline shall be extended for that period that the customer refused to cooperate.
2.7.5. The TSP will not exercise its salvage rights if the depreciated replacement value of all salvageable items totals less than $100.00, or, in the case of a single salvageable item, the item has a value of less than $50. 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, then the TSP may exercise its salvage rights.

2.7.6. The TSP will not exercise its salvage rights on items that are hazardous or dangerous to the health or safety of the customer or the customer's family. Such items include, but are not limited to, broken mirrors or glass, spoiled food, moldy mattresses or other fabric items. For potential salvage, the customer will retain antiques, figurines, and crystal with a single item value of $50 or more.

2.7.7. If the TSP is unable to exercise its salvage rights due to the disposal of an item by the customer, the TSP may reduce its liability by 25% on that item, if it has a depreciated replacement value of $50.00 or more. The TSP is not entitled to a deduction for salvage on a single item with a depreciated replacement value of less than $50.00, unless the total combined depreciated replacement value of all items that have been disposed of is $100.00 or more.

2.8. Claims for $25 or Less

In an effort to reduce administrative costs, the Military Services agree that they will not pursue a claim against a TSP for loss or damage to household goods that were transported under this document, if the amount of the claim is for $25 or less. The TSPs agree that they will not request reimbursement for such claims from the Military Services for an amount of $25 or less. However, this provision does not apply to claims submitted directly to the TSP by a customer.

2.9. Dispute Resolution

2.9.1. If a customer does not accept a settlement offered by the TSP, the customer may transfer a claim as specified in Section 2.1.2, above, to the appropriate MCO. If the customer transfers a claim to the military, the MCO will resolve the customer's claim in accordance with its Service's claims regulations and procedures. The MCO will then assert a recovery claim against the TSP under these business rules. The TSP must pay, deny or make an offer on the recovery claim within 60 days of receipt of the claim, unless an extension is granted by the MCO.

2.9.2. If the TSP and the MCO cannot reach a mutual settlement on the recovery claim, the military may collect the amount of its recovery claim by administrative offset from money that is owed to the TSP for transportation services, or from other payment due the TSP directly from the government. If payments to the TSP are made by a third party payment system, the TSP agrees that the appropriate MCO may direct the party paying the TSP to divert all or part of any payment to the appropriate military finance center in order to accomplish offset to pay a government claim from a prior shipment.

2.9.3. If the TSP following such an offset, continues to dispute the amount of its liability, then it may file an administrative appeal under the provisions of Title 31, United States Code, Section 3702, to the Defense Office of Hearing and Appeals (DOHA) or it may file suit in the appropriate federal court.

2.9.4. In some cases more than one TSP may have had custody of the goods. The claim will be filed with the delivering TSP, and the delivering TSP who first receives the claim may deny all or part of the claims on the basis that a prior TSP is liable for part of the loss. The delivery TSP must forward it to a prior TSP in the chain of custody and notify the customer of the transfer. In those cases, if the prior TSP disputes the liability and alleges the delivery TSP was liable, the customer does not have to continue to deal with the TSPs but may transfer the claim to the appropriate MCO for resolution of the claim without giving prior notice to the delivering TSP. The customer always has the right to transfer a claim to an MCO after 30 days have passed since filing the initial claim against the delivery TSP.

2.10. Catastrophic Loss Payments

2.10.1. TSP is required to contact the MCO, when catastrophic losses occur. The TSP is responsible for identifying and making partial, advance payments to customers who have suffered a catastrophic loss. These payments are designed to relieve a customer's hardship associated with the loss of all or a majority of their household goods. The payments are an advance and should not exceed the TSP's expected total liability, per Section 1.0 Liability. The customer will still be required to file a claim for their loss. Any advance payment made will be deducted from the customer's eventual award. Such payments are subject to the same maximum liability and rules as all payments under these business rules. If a payment is made by a TSP and the TSP is subsequently found to not be liable for the loss/damage, the TSP may seek reimbursement of the paid amount through the MCO and/or the customer's Service HQ.

2.10.2. Catastrophic loss occurs when over 60% of the inventory line items in a given shipment are lost, damaged or destroyed. However, TSPs are free to declare catastrophic losses and make a partial payment at their discretion if the 60% threshold has not been met. If a TSP cannot contact

the customer within 48 hours, they will make payment or come to an agreement on payment within 48 hours of making contact. To the extent possible, catastrophic losses and payments will be recorded in DPS. The declaration of a loss as catastrophic and the making of a partial payment is not an admission of liability regarding any particular piece of property. Further, a customer's request for, or a TSP's identification of, such loss does not constitute a claim.

2.10.3. TSPs are expected to make advance payments of no less than 5% of their total maximum liability for the shipment as soon as possible after a catastrophic loss occurs. Payments must be made within 48 hours of the TSP discovering or being notified of a catastrophic loss, unless the customer and TSP otherwise come to an agreement. TSPs are free to make an advance payment in any amount they believe will not exceed their total expected liability to the customer.

2.10.4. In the event that a TSP identifies or is informed of a catastrophic loss for which it believes it is not liable under Section 1.3, Exclusions from Liability, above, the TSP shall inform the customer's MCO within 24 hours. In such cases, the MCO shall handle the advance payment and claim. If it is later determined that the TSP was, in fact, liable for the loss, the MCO will assert a recovery claim against the TSP. The TSP shall be liable as if the customer had filed a claim with the TSP within nine months of their loss.

2.11. Essential Items

2.11.1. The TSP is responsible for promptly dealing with customers who have had essential items lost, destroyed or made unusable due to damage. Customers are responsible for notifying the TSP, MCO, or PPSO of such a loss within 7 days of the date their goods were delivered. Any item not identified in this way by the customer shall not be considered "essential."

2.11.2. Upon notification of the loss of an essential item by either the customer, MCO, PPSO, or SDDC, the TSP shall either pay for such items, provide temporary or permanent replacements for them, repair them or such other arrangement as agreed to by the customer. Such action must be taken within two (2) business days of notification, regardless of whether a claim has been filed. Payments made by the TSP pursuant to this paragraph shall be considered an advance and should not exceed the TSP's expected total liability. Customers will still be required to file a claim for their loss. Any advance payment made will be deducted from the customer's eventual award. Such payments are subject to the same maximum liability and rules as apply to all payments.

2.11.3. If a TSP declines to provide or pay for an essential item or fails to respond to notification within the two (2) business day period, the customer may file a claim for said item(s) directly with the MCO. In such cases, the customer shall retain his or her right to FRV for those essential items for which notice was provided to the TSP. The customer is expected to file the remainder of their claim consistent with the provisions of these business rules.

2.11.4. In the event that a TSP identifies or is informed of the loss or damage of an essential item for which it believes it is not liable under Section 1.3, above, the TSP shall inform the customer's MCO within 24 hours. In such cases, the MCO shall handle the advance payment and claims. If it is later determined that the TSP was, in fact, liable for the loss, the MCO will assert a recovery

claim against the TSP. The TSP liability will be as if the customer had filed a claim with the TSP within nine months of their loss.

2.11.5. Essential items are only those items necessary for everyday living, which would reasonably need to be replaced promptly. Items used solely for entertainment purposes are not considered essential. Fungible items that are regularly used up or worn out and must be routinely replaced are not considered essential. Essential items include, but are not limited to:

2.11.5.1. Refrigerators or other appliances necessary for the safe storage and preparation of food;

2.11.5.2. Necessary medical equipment; and

2.11.5.3. Mattresses.

2.12. Claims Processing in DPS

2.12.1. After the customer enters information about lost and/or damaged items into the DPS Claims Management module, the TSP will have an opportunity to either deny the claim in its entirety or to agree to the customer demand in its entirety. Otherwise, the TSP must respond with proposed dollar amount settlements on an item-by-item basis. The amounts will reflect costs to repair or replace items as appropriate. DPS will include a notes field associated with each line item. for the TSP to explain to the customer the rationale of their counter-offer or denial. Until such time as DPS is modified to include a notes field, the TSP shall use other reasonable communication methods (e.g., email, memoranda) to explain its rationale for its counter-offer.

2.12.2. For each item claimed, the TSP may make an offer or deny any settlement. If an offer is made on an item, the customer may either accept or dispute the amount offered. The customer may provide a counter offer for each item's settlement amount that they dispute; which the TSP can in turn, accept, refuse or counter offer. DPS allows an indefinite number of offers and demands to be exchanged between customers and TSPs. If the customer is unable to reach a mutual agreement on an amount to be reimbursed on one or more items, the customer can transfer the disputed item(s) to their MCO for settlement per the conditions as set forth in Section 2.1.2, above.

2.13. Filing Notice of Loss/Damage.

2.13.1. The first step in initiating a claim under the FRV guidelines of The Defense Personal Property Program is filing Loss/Damage Reports. The first loss/damage report, Notice of Loss/Damage AT DELIVERY, is made at the time of delivery for loss or damage discovered at that time. Prior to TSP leaving, customer must sign form and give to the TSP. The Notice of Loss/Damage AFTER DELIVERY is for damage discovered during unpacking after the delivery is complete.

2.13.2. For filing the Notices in DPS, the customer should enter all the information from their copy of the 'Notice of Loss/Damage AT Delivery' form provided by the TSP as soon as possible.

Timely entry of this information ensures that everyone that may need to become involved in settling a claim has visibility to all available information. The customer must enter the information of any loss/damage AFTER delivery into DPS within 75 days after delivery per the requirements as set forth in Section 2.3.3, above.

2.13.2.1. The TSP shall update DPS that delivery has been completed within 3 business days after said delivery. If the TSP updates DPS within 3 business days after delivery, the 75 day notice period shall start on the day after delivery. If the TSP fails to update DPS within 3 business days after delivery, the 75 day notice period will begin the day after the TSP updates DPS that delivery has been completed.

2.13.3. If DPS is not used to file the Notice of Loss/Damage AFTER DELIVERY, customers must complete the form and dispatch it to the TSP within 75 days, per the requirements of Section 2.3.3, above.

2.13.4. Although customers may file multiple claims for the same shipment, they will be counseled to unpack and examine all of their goods before they submit a claim.

2.14. Checking Status of Loss/Damage Claim

The customer can monitor the status of their claims through DPS. Every claim and item within a claim will always have a status while in the system. The status reflects what actions have been taken and who must complete the next pending action. Claims and associated items will have one of the statuses shown in Table 2-1. Any time a change of status occurs on a claim item, the user will receive the appropriate notification from DPS.

Table 2-1: Claims Management Status Claims Management Status

Claim		Item	
Status	Owner	Status	Owner
In Progress	Customer	Demand Pending	TSP
Submitted	TSP	Offer Pending	Customer
Under Review	Customer and TSP	Denied	Customer
Updated	Customer and TSP	MCO Adjudication	MCO
Denied	Customer	Settled	

The customer has the capability to provide information and/or responses for claims and items pending "Customer" action as indicated in Table 2-1. A claim is settled and closed in DPS when all items are settled.

2.15. TSP Denied Loss/Damage Claim

If the TSP denies the customer's overall claim, the customer can either accept the denial or transfer it to their MCO immediately on receipt of the notice of denial, per Section 2.1.2, above.

2.16. Responding to a TSP Proposed Settlement

2.16.1. One of the primary objectives of The Defense Personal Property Program is to simplify and streamline the handling of personal property claims by enabling customers to negotiate settlements directly with TSPs whenever possible. This saves time, paperwork and costs for everyone involved. DPS allows the customer to individually negotiate and settle items while their claims are under review by facilitating the necessary correspondence between them and the TSP.

2.16.2. If after checking the status of one or more items included in the customer's claim(s) under review as described in Table 2-1, the customer sees "Offer Pending" or "Denied," a response is pending from the customer. For an offer pending, the customer may respond by accepting the TSP's offer or by submitting a counter offer. If the TSP denies a claimed item (the item shows a "Denied" status), the customer may transfer that item to their MCO in accordance with the procedures in Section 2.1.2 above.

2.16.3. If the customer is unable to reach a mutually agreeable settlement for one or more of their items lost or damaged, they are also entitled to transfer those claimed items to their MCO after at least 30 days has lapsed from the date the claim was filed, unless one of the events listed in Section 2.1.1, above, occurs sooner. The customer can transfer specific items they choose using DPS. The customer must comply with their Services' regulations for filing claims.

2.17. Unearned Transportation

2.17.1. Unearned transportation is defined as payment for transportation of items, the value of which was not delivered. For items that are destroyed, lost or missing at delivery, TSP's shall not be responsible for unearned transportation costs if the full replacement value of all lost or missing items has been paid to the owner or customer.

2.17.2. Otherwise, DPS will capture those items that were denoted as lost or missing in the claims module. DPS will calculate the aggregate weight of the lost or missing items according to the Joint Table of Weights. Based on the calculated weight and the TSP's filed rates, DPS will calculate the value of the unearned transportation.

2.17.2. Each Service will be able to view the value of unearned transportation for each shipment by SCAC code. The Services can request a refund for that unearned transportation through DPS. The TSP would then submit a refund invoice to PowerTrack. PowerTrack will then transmit the refund to DPS for Service processing. If a TSP did not initiate the new invoice within 30 days of the Service request, then the Service may collect the money through administrative offset.

2.18. Shared Liability on International Shipments

2.18.1. On some international shipments, the Government requires the TSP to use Air Mobility Command aircraft or a vessel operating under a Voluntary Intermodal Shipping Agreement to transport the shipment for part of the journey. Liability shall be shared in these situations.

2.18.2. TSPs are relieved of liability for loss or damage on these shipments when the TSP can reasonably establish that the loss or damage occurred while the shipment was in the custody and control of the Government or Government-directed source of transportation. If a TSP receives a claim directly from the owner, and all of the loss occurred while the goods were in the custody of the Government or Government-directed source of transportation, the TSP will deny liability and advise the owner to file a claim with the appropriate MCO. If only part of the loss or damage occurred while the shipment was in the custody of the Government or Government-directed source of transportation, the TSP will settle those portions of the claim for which it is liable and refer the owner to the MCO for the payment on the rest of the claim.

2.18.3. Where it is evident that the loss or damage occurred while the property was in the possession of the TSP, the TSP will be responsible to the full extent of its normal liability.

2.18.4. If the time and place of the loss or damage to this type of shipment cannot be clearly established, and if the owner submits a claim directly to the TSP, the TSP will pay the owner the full amount of the loss, not to exceed twice the TSP's maximum liability on the shipment. The TSP will then forward a request for payment of 50% of the settlement to the MCO designated by each military service, supported by a copy of the completed claim. The MCO will pay 50% of the settlement to the TSP within 30 days of receipt of the request, provided the claimant/owner was a proper claimant under the Military Personnel and Civilian Employees Claims Act, and the claim was timely filed. Notwithstanding any agreement for the Services to pay 50% of the total liability, an MCO shall not pay more than it is authorized to pay under the Military Personnel and Civilian Employees Claims Act or other statutory authorization for the entire claim, even if the authorization is less than 50% of the full replacement value of the claimed items.

2.18.5. If the time and place of the loss or damage to this type of shipment cannot be clearly established, and the owner files a timely claim directly with a MCO, the military will pay the owner. The MCO will then assert a recovery claim against the TSP for only 50% of the adjudicated value, not to exceed the TSP's maximum liability. The government will accept this compromise settlement of its recovery claim, if the TSP accepts and agrees to pay that amount within 60 days of receipt of the demand. In the event the TSP does not accept the MCO's adjudication of a claim in this category or does not accept and agree to pay within 60 days, then normal negotiating procedures will apply and the 50% compromise agreement will not be acceptable.

3.0. Claims Management with Multiple TSPs

NTS and DPM shipments may involve more than one TSP handling a single shipment. This situation results in shared liability between the two or more TSPs. DPS will be developed to facilitate claims processing and settlement among more than one TSP. The customer's claim filing process will not be impacted by this enhanced DPS functionality.

3.1. Documenting Loss/Damage and Filing Claim

The customer will follow the previously discussed procedures to document loss/damage and file their claim in DPS. The DPS Claims Management module will have the same appearance and functionality as the Loss/Damage module. However, DPS will recognize if the claim is against a shipment that was handled by more than one TSP.

3.2. Shared Liability Settlement Process

3.2.1. Regardless of the number of TSPs that handle a shipment, DPS will route the customer's entire claim to the delivering TSP. The delivering TSP will determine the specific claim line items for which they are responsible. The delivering TSP can accept or deny responsibility for a line item in DPS and will use riders that were completed during shipment to determine responsibility. The delivery TSP will scan the riders into DPS and attach those documents to the claim. If no rider exists to establish responsibility, the line item becomes the responsibility of the delivering TSP.

3.2.2. If a delivering TSP determines it is not responsible for a line item, the delivering TSP will mark the line as such in DPS. DPS will forward the marked line item to the appropriate TSP.

3.2.3. The line items the delivering TSP does not claim will appear in the work queue for the appropriate, earlier TSP. The earlier TSP will have the opportunity to accept or deny responsibility for the claim line items. Once responsibility has been accepted by a TSP, it can only be changed by the MCO. TSPs can only establish responsibility for themselves and cannot assign responsibility to other parties.

3.2.4. If responsibility for a line item is rejected by an earlier TSP, the delivering TSP will have another opportunity to establish responsibility. Negotiations of responsibility between the delivering TSP and an earlier TSP may happen outside of DPS, but must be settled within the specific period of time for settling the claim detailed in Section 2 above. There are no extensions or exceptions to this rule.

3.2.5. When responsibility for a line item is denied by all TSPs, the MCO will be alerted via DPS that those items have been transferred to the MCO, and the MCO will establish the responsibility for a line item. The MCO will pay the customer and then determine whether the recovery claim should be asserted against the delivering TSP or another TSP. The transfer will reflect in the claims metrics of the delivering TSP. When DPS calculates the claims metrics, these line items will be factored into the claim score of the responsible party only.

3.2.6. In any case, a customer may transfer a claimed item to an MCO as soon as the delivering TSP denies payment for that claimed item and attempts to shift liability to an earlier TSP. The MCO will then settle the claim per its procedures, identify the appropriate TSP for liability, and assert a recovery demand against that TSP for FRV.

3.3. Split Line Item Settlement Process

There may be situations where responsibility for a single line item on a claim is shared by multiple TSPs. DPS will have the ability to split responsibility among the TSPs. This split will be a

percentage of the total dollar value of the damage for that line item. Either the TSP or the MCO will be able to assign a percentage. TSPs can only enter a percentage for the line items for which they are responsible. A TSP cannot assign a percentage to another TSP.

3.4. Acceptance of Claim

3.4.1. Once in receipt of the settlement offer, the customer may accept or reject the offer by line item or in its entirety. The rejected offer may or may not include a counter-offer from the customer. TSPs may counter the customer's counter offer or accept it. This back and forth process gives the customer and the TSP flexibility in working toward a resolution. TSPs have the option of stating that their offer is final in such case, the customer's rejection will not include a counter-offer, and the customer can immediately transfer the claim to the appropriate MCO. If an offer is designated as "final offer" by the TSP within 30 days of filing, the customer may forward the claim to the respective MCO for resolution.

3.4.2. Once a final settlement is reached, DPS will provide an "acknowledgement" screen identifying the TSPs responsible for payment and their payment amount(s) for each line item. The screen will also provide TSP contact information if the customer does not receive settlement payment within 30 days of the settlement date. The customer will have the capability to print this screen. DPS will also provide the customer the address of the appropriate Regional Storage Management Office (RSMO) to contact in the event they do not receive their payment in a timely manner from an NTS warehouse.

TAB J

IF IT AIN'T BROKE, DON'T FIX IT: REPAIRS AND REPAIR ESTIMATES UNDER THE JULY 2013 DP3 CLAIMS AND LIABILITY RULES

Written jointly by: Kevin Spealman, Vice President & General Manager, National Claims Services, Inc. and Steve Kelly, Chief, Personnel Claims Branch, US Army Claims Service.

It represents an attempt to bridge any remaining gaps between MCO's, TSP's and Repair Firms.

Prior to the DP3 program and direct settlement with the TSP, most claimants filed directly with the Military Claims Office. The TSP was then sent a Demand on Carrier, for the purpose of carrier recovery. Under the old way of doing things, the claimant was required to get the estimate, and he chose the repair firm. As such, any issues with the repairs being unsatisfactory were the service member's problem - since he chose the repair firm.

One of the supposed benefits to the claimant under Families First/DP3, in addition to the right to receive FRV for missing and destroyed items, is that the obligation to obtain repair estimates was shifted to the TSP. In turn, pursuant to Section 1.1.2.1 of the DP3 Claims and Liability Rules (available on the SDDC website), the TSP was given the option to provide either a repair in kind or payment of repair cost.

Because the TSP is now in charge of obtaining estimates, and has the right to determine whether to offer repair in kind or a repair cost, the DP3 Rules contain over a full page setting forth the standards for the sufficiency of estimates, and the adequacy of repairs, at Section 2.3.5. There are three basic principles set forth in the Section, two of which were impacted by the changes to the Rules contained in the July 2013 version.

1. The TSP must send a copy of the estimate to the member if requested.
2. Estimates must be from a firm that is willing and able to make the repair within a reasonable time, for the amount stated.
3. Repairs must be to the "reasonable satisfaction" of the customer.

INSPECTION REPORTS/ESTIMATES

If the TSP uses an estimate to support an offer of settlement, and the customer requests a copy, the TSP must now provide a copy to the customer. The claims rules allow for "redactions of proprietary information" prior to sending however, allowing for removal of interpretive remarks that are perhaps not suitable for a document provided to the customer. The best way to deal with this problem by far however, is for any such remarks to be on a separate document. The report itself should be in language that is professional in nature, since this may be sent to the claimant.

TSP estimates "... must identify a repair firm that is willing and able to make the repair within a reasonable time for the amount stated." See Section 2.3.5.2. This requirement is not new. In addition to being required by the Rules, any estimate that did not meet these standards would obviously not provide a solid basis to either the TSP or the claimant for settlement of damaged items. These requirements must be satisfied even if the person preparing the estimate, or the TSP's adjustor, believes that the TSP is not liable for some or all of the damage. In addition to being required by the Rules, the cost of repair provides information that may well be necessary to a settlement. Sometimes there may be genuine uncertainty as to whether a TSP is liable for damage to an item or not. The cost of repair may provide a basis for compromise.

While not contained explicitly in the Rules, common sense and experience have provided some standards for what should NOT be in an estimate. There should be recognition that repair firms are expected to have expertise in repairing furniture, but not necessarily in points of law or the claims business rules. For that reason the estimate should not attempt to interpret provisions of the Rules. Repair firms should not make statements suggesting that the TSP deny a claim, or opine about whether TSP has liability or not, but should state facts that may have a bearing on liability. It is still important to provide as much factual information as possible, so that the adjustor has what they need to make a determination. For example, instead of stating "scratches covered on inventory - DENY" - the report could say "scratches are consistent with those listed on the inventory, and/or "scratches have old dirt residue and do not appear to be new."

REPAIRS

In general, if a TSP provided estimate is the basis for a settlement, either by agreement on a repair in kind, or agreement on the exact amount in the estimate as the cost of repair, the TSP must stand behind the estimate. If it does not, the settlement is not binding on either the claimant or the Government.

The TSP's repair firm must be willing and able to perform repairs within a reasonable amount of time and for the amount stated - even if the adjustor believes that the TSP has no liability for some or all of the damage. The service member should be able to expect that the estimate be honored, even for items not paid, as he himself is reimbursing the repair firm.

There is currently NO standard for how long the repair firm should be expected to honor its estimates. Price inflation is one half of the picture; the other problem with extending the validity of the estimate would be that the item could have sustained additional damages, or the damage may have worsened due to being left untreated, or due to additional wear. The repair firm would have to have an adequate reason for any price changes that appear to be beyond the scope of normal inflation.

SETTLEMENT FOR COST OF REPAIR

If the amount paid is based on a repair cost, the TSP cannot escape their responsibility for ensuring adequate repairs, by taking the position that the claimant gave up the right to further reimbursement simply by accepting the money.

Like most things, there are exceptions to this rule, such as the repair firm, in the course of repairing the damage for which a TSP had already paid a sum of money based on a repair estimate, finding some additional damage for which the TSP may not be liable. In this case, the item would have to be renegotiated completely (not binding on either party). Another scenario would be if the customer failing to cooperate in allowing the repair firm access to make the repairs (more than one or two rescheduling of the appointment was given as an example by Mr. Kelly). There are of course many possible scenarios and this article cannot try to give a solution for each conceivable one. As the attorney co-author of this article is fond of saying, there is one answer for all legal questions: "It depends."

REPAIR IN KIND

When the claims rules for Families First (later to become dp3) were being developed, the provision for repair in kind was looked upon as a benefit to the TSP, more or less in exchange for imposing upon it the burden of obtaining estimates, and for the increased potential liability associated with FRV. The disadvantage for the TSP is that an agreement for a repair in kind of an item always leaves open the possibility that the claim for that item has not been finally resolved. This is the subject of an Information paper by the co-author of this article, which may be found in his Defense Personal Property Program Claims Handbook.

Section 2.3.5.6 states in part: "Repairs must be made to the reasonable satisfaction of the customer." The customer's remedy, if the TSP does not agree that the repair was not adequate, is to transfer the item to the MCO. Even though the item is settled, if the MCO determines that the repair was not adequate, it will pay the claimant based on his own estimate, or depreciated replacement cost if the item cannot be adequately repaired, and pursue recovery.

There are no standards in the Rules for deciding if a repair is adequate; however, the burden is on the claimant to prove the repair inadequate. One method, although not the only one, is to provide another estimate explaining why the repair was not adequate. In the absence of another estimate, the sooner the supposed inadequate repair is reported, the stronger the case will be, both to reduce or eliminate the possibility of damage subsequent to the repair, and to demonstrate the severity of the problem. If the claimant sits on a chair the day after the repair is completed and it collapses, this is a good indication that the repair was not adequate. If he decides, after 3 months, that the scratch the TSP agreed to repair is still visible to him and he can't live with it, he is unlikely to convince the TSP or the MCO. These are extreme examples, however, and not likely to provide much guidance in the typical case where the customer is not satisfied. For repair firms, we do recommend that when repairs are performed, that you take "before and after" photos of the damaged area. We suppose once again, that "it depends." ❖

TAB K

Table of Contents
For
INFORMATION PAPERS

REIMBURSEMENT FOR RENTAL CAR WHEN POV IS DELIVERED LATE . 70

PAYMENT OF PCA CLAIMS OF CIVILIAN EMPLOYEES OF DOD..... 71

CURRENT PROCEDURES IN EFFECT FOR LOST/DAMAGED OCIE 73

CLAIMANT NOT SATISFIED WITH REPAIR IN KIND..... 75

CLAIMS FILED TIMELY WITH THE TSP, BUT TRANSFERRED TO THE MCO MORE THAN TWO YEARS AFTER DELIVERY; SUBMISSION TO USARCS FOR RECOVERY..... 76

HOW TO DETERMINE THE END OF A PERIOD OF TIME..... 77

INCONVENIENCE CLAIMS AND CLAIMS FOR ESSENTIAL ITEMS..... 79

INSTRUCTIONS OF IMPLEMENTING THE FRV "GAP" LEGISLATION 80

REQUESTS TO EXTEND THE 75-DAY NOTICE PERIOD..... 83

TSP'S RIGHT TO SALVAGE UNDER DP3 87

INFORMATION PAPER

JACS-PC
August 12, 2014

Subject: Reimbursement for Rental Car When POV Delivered Late

1. The claims office cannot pay claims for rental car expenses incurred due to late delivery of the member's POV. The entitlement to seven days rental car expenses is paid by DFAS as part of the member's travel voucher.

2. USARCS has received the following guidance from DFAS on this subject:

From a finance perspective, we need the following at a minimum:

1. Copy of the member's PCS orders, showing that POV shipment is authorized

2. Copy of the document from the shipping facility showing the POV was delivered to a gov't agent for shipping (this assures the gov't ships, not a private contractor, which is not reimbursable) and where it was delivered (the shipping port).

3. Copy of the document showing when the vehicle is expected to be delivered, and where.

4. Copy of the document showing when the vehicle is actually available for pick up. This supports that the vehicle actually arrived late based on the promised arrival date and that the rental car period was during the delay period.

On all of these documents, we need the member's name so we can ensure the documents apply to/pertain to the traveler in question.

It is important to support the payment with documentation showing not only that the vehicle arrived late, but that it was not available for pick up until after the promised delivery date. To that end, we require the documents above to support and provide an audit trail for the entitlement.

Sheila Melton
Director, Travel Functional Area
Enterprise Solutions and Standards
DFAS

3. The POV shipping contractor, International Auto Logistics (IAL) is also liable for rental car expenses if the late delivery was the fault of IAL, and there is no seven day cap. A claim for these expenses must be filed directly with IAL.

Steven R. Kelly
Chief, Personnel Claims Branch

INFORMATION PAPER

JACS-PC
August 12, 2014

Subject: Payment of PCA Claims of Civilian Employees of DoD

1. Department of Defense Directive 5515.10 provides at paragraph 4.2,1, that the Department of the Army is responsible for paying PCA claims by "...civilian officers and employees of the Department of Defense who are not civilian officers or employees of a Military Department."

2. The attached flowchart illustrates the basic principle that the Military Departments, Army, Navy, and Air Force, fall under the authority of the Department of Defense. So in a sense, anyone, military or civilian, who works for the Army, Navy or Air Force also works for the DoD. As a result, there often is confusion on the part of claims examiners as to which Service is responsible for processing and payment of a PCA claim by a civilian employee of the Department of Defense.

3. All active duty military personnel belong to one of the Military Departments (Army, Navy, or Air Force), even if they are assigned to a DoD Agency or Field Activity. However, that is not true of civilian employees. While some civilians work for a Military Department, some work directly for the DoD Agency. The Army, pursuant to the DoD Directive quoted above, is responsible for paying PCA claims of civilian employees who work directly for DoD. They include those employees of the DoD Agencies and Field Activities listed in the attached flowchart as well as those in the Office of the Secretary of Defense and the Office of the Inspector General of the Department of Defense .

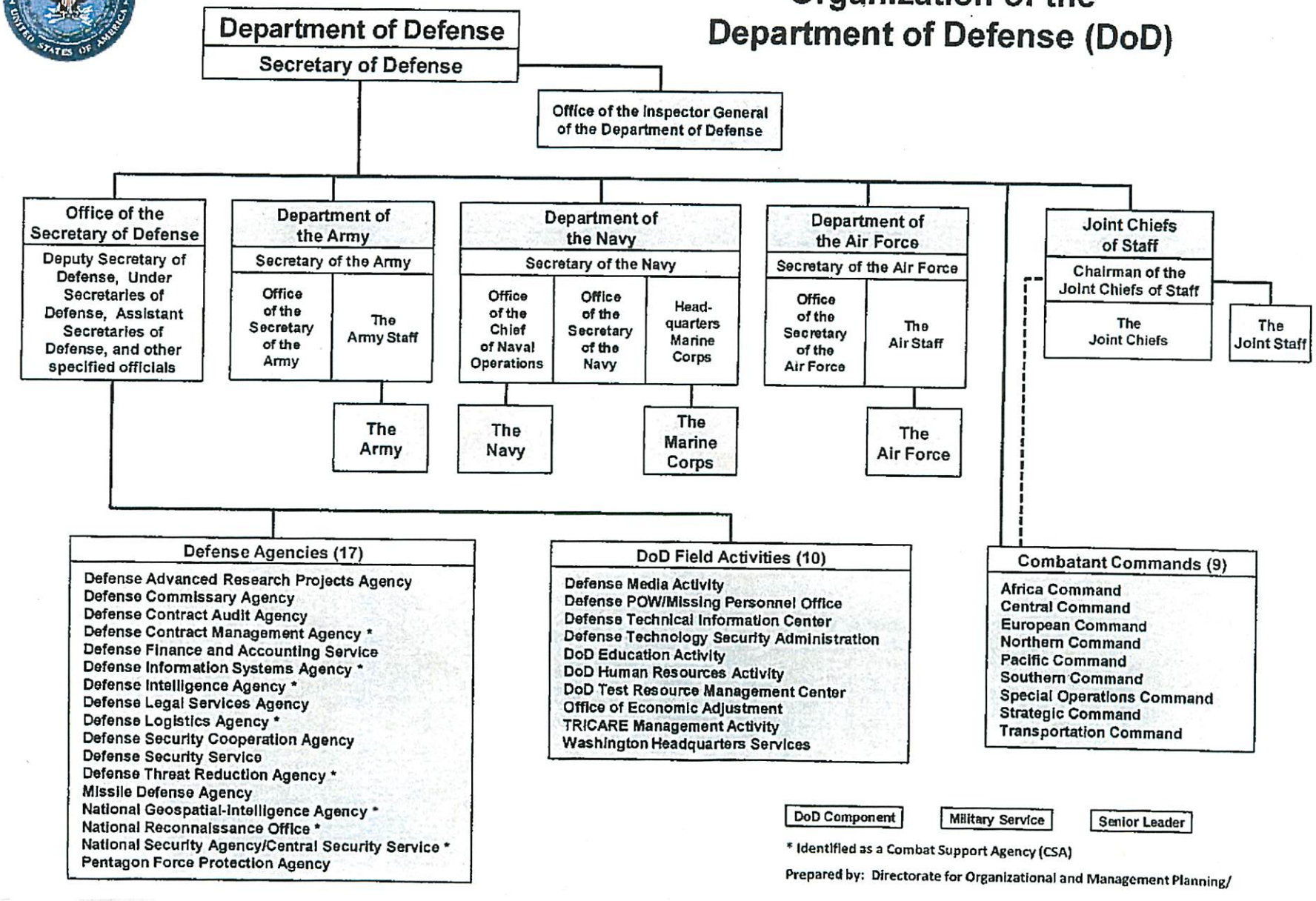
4. Entries on a GBL or within DPS are not determinative on this issue. An examiner must get to the bottom of whether the claimant works for a Military Department, or directly for DoD. Sometimes the claimant himself does not know that he works for the Department of Defense, but only knows the name of the organization to which he is assigned. But if he works at an organization whose name begins with "Defense" or "National," it is a good bet he works for DoD, and not Air Force, Navy, or Army, and therefore must file with the Army.

5. The question of which Service should handle a civilian's claim also arises when the claimant is moving from a job with one Military Department to a job with a different Military Department. The simple answer is that, pursuant to an agreement between the Services, the gaining Service must handle the claim.

6. DoD Directive 5515.10 only applies to Agencies within the Department of Defense. There is no authority for the Army to pay PCA claim of employees of other Federal Agencies outside the DoD, such as the Department of Agriculture, even if they are attached to an Agency within the DoD for some purposes.

Steven R. Kelly
Chief, Personnel Claims Branch

Organization of the Department of Defense (DoD)



July 29, 2014

CURRENT PROCEDURES IN EFFECT FOR LOST OR DAMAGED OCIE

USARCS has devoted much thought to coming up with one comprehensive procedure for the processing of claims for Organizational Clothing and Individual Equipment (OCIE). OCIE is defined in Common Table of Allowances 50-900, at paragraph 9, as "...mission essential Army owned property listed in Tables 4,5,6, F-1, G-1, H-1 and J-1 for which the organization commander retains responsibility, and which may be rotated among using individuals as required, unless identified as nonrecoverable."

However, for the present, we have prepared this guide, which explains existing law and procedures and which should be followed in situations involving loss or damage to OCIE during HHG or hold baggage shipment. In a nutshell, a claim for OCIE may be asserted by the soldier against the TSP and settled between them. Or if the claim is asserted by the soldier and not settled, or not asserted by the Soldier at all, the claim may be pursued by the Army.

Why Are Claims for OCIE Problematic?

In 2008 the Army began requiring Soldiers to retain OCIE when undergoing a Permanent Change of Station (PCS). They are authorized to ship their OCIE in their HHG. Around the same time direct settlement with TSPs under the FRV and DP3 programs began. This coincidence of timing has resulted in confusion on the part of many TSPs and Army claims examiners. It used to be that a soldier would be issued OCIE (formerly also known as TA-50) helmets, backpacks, etc., when he arrived at a new duty station. He or she then turned it in when due to PCS to a new duty station. So no claims issues arose over it. But now the Soldier is in many instances required to hold on to it, and ship it to the new duty station with the Soldier's HHG. If it is missing or damaged, he has a right to file a claim for it against the TSP. But if the TSP does not pay for it, and he transfers his claim to the MCO, the MCO will not pay him, but USARCS will still assert a claim for it s against the TSP. Whether or not USARCS is able to recover for the OCIE, the soldier should be relieved of liability since he has done all he can to assist the Army in obtaining payment for the lost or damaged OCIE.

The soldier to whom the OCIE has been issued is necessarily involved in the process. He is the only one in a position to know that his OCIE is damaged or missing, and to provide NOLD to the TSP within 75 days. That same soldier will often subsequently file a claim against the TSP, and in many instances will not seek assistance from the MCO before doing so. But the Army is also inevitably involved in the process at some point. It may be asked for assistance with the soldier, before or after he has submitted a claim against the TSP. If the TSP **does not** pay the Soldier's claim for the OCIE, the Army then has the primary interest in pursuing recovery against the TSP. If the TSP **does** pay the claim, the Army will seek to ensure that it, as the ultimate owner, is reimbursed by the Soldier.

Who May Submit Claims For OCIE?

It is not subject to dispute that if a TSP takes possession of OCIE as part of a Soldier's HHG or hold baggage shipment, and the OCIE is lost or damaged, the TSP is liable for the repair or full replacement cost of this property.

Under the law of property, either the soldier who shipped the OCIE, or the Army, may file and be paid on a claim for OCIE. The Government is the owner of the OCIE, and also has an independent right to claim for any property which it paid to transport. However, the soldier/shipper also has a possessory right to the OCIE, in other words, the Army has given him custody of the OCIE, which is sufficient to make him a proper claimant also for damage to or loss of the OCIE. The practical effect is that a claim for OCIE should be treated like a claim for any other property shipped under the DP3 program. The shipper usually files a claim with the TSP, but the Government may also file a claim for that property. Usually the Government's claim is for recovery of money it has already paid to the member (plus FRV). If there is some reason for the Government to file a claim against the TSP without having paid a claim to the member under the PCA, it has a legal right to do so.

Of course the TSP is not liable twice. If it has already paid a claim for OCIE to the member, it is not required to pay the Government should the Government also file a claim. The reverse is also true, if it has already paid the Government, it is not liable to the member.

If the soldier's OCIE is lost, his unit will conduct a FLIPL (formerly known as a Report of Survey) to determine how the loss occurred and whether the loss was due to the soldier's negligence. If the soldier has been paid by the TSP for the lost OCIE, he is required to turn that money over to his unit; if not, he may be absolved of liability, but the Government at some point should file a claim against the TSP. But none of this is the concern of the TSP, so long as it is not held liable to both the soldier and the Government for the same items.

If the TSP requires solid substantiation for the claim, and pays only what is substantiated, but the member ends up profiting because the Army did not check to see whether the member was already paid by the TSP when it decides not to hold the member liable in a FLIPL, the TSP does not suffer, the Army does.

As a practical matter, if the TSP refuses paying the member, often the matter goes no further, and the TSP escapes liability entirely for the lost OCIE. That is unacceptable.

STEVEN R. KELLY
Chief, Personnel Claims Branch

DEPARTMENT OF THE ARMY
U.S. ARMY CLAIMS SERVICE
OFFICE OF THE JUDGE ADVOCATE GENERAL
4411 LLEWELLYN AVENUE SUITE 5360
FORT GEORGE G. MEADE, MARYLAND 20755-5125

REPLY TO
ATTENTION OF:

INFORMATION PAPER

JACS-PC
2 October 2012

SUBJECT: Claimant Not Satisfied with Repair in Kind

1. If the TSP offers a repair in kind, and the claimant accepts, the repair most be done properly. I believe this would be true even if this situation were not addressed in the business rules. But it is. Paragraph 2.3.5.6 says, in pertinent part: "Repairs must be made to the reasonable satisfaction of the customer."

2. I have seen instances in which Field offices have tried to apply the rule in the Pam, that says there is no remedy for inadequate repairs. That only applies to a claim under the PCA, because the claimant has obtained the estimate; he chooses the repair firm, so he is stuck with their work.

3. The rule that the repair must be to the customer's reasonable satisfaction is easy to state. It's hard to apply in practice. Sometimes the repairman has the claimant sign a paper before he even leaves the house, saying the repair is satisfactory. That is not binding. Generally, the more time passes before the claimant discovers the supposed problem with the repair, the harder it will be to establish that the repair was inadequate, as opposed to new damage or fair wear and tear. This issue will have to be addressed by the Field Office. If a claimant comes in to the MCO with a claim for the same item which has been repaired in kind by the TSP, the MCO will have to decide whether the repair was adequate. If not, the MCO can pay the claimant for that item. Then the problem devolves upon recovery. A demand should be made for the item; if the evidence is there that the repair was inadequate.

4. In regard to whether the initial repair was adequate the claimant will need to provide substantiation. This may be as simple as the claimant's statement that it fell apart the next day under normal usage, or by having another repairman provide his/her "expert opinion" that the repair was inadequate, did not meet minimum standards, the damage was such that it could not have been adequately repaired, etc. We will also need this substantiation for recovery.

5. The point of contact is the undersigned at steven.kelly1@us.army.mil or 301-677-9214.

STEVEN R. KELLY
Chief, Personnel Claims Branch

DEPARTMENT OF THE ARMY
U.S. ARMY CLAIMS SERVICE
OFFICE OF THE JUDGE ADVOCATE GENERAL
4411 LLEWELLYN AVENUE SUITE 5360
FORT GEORGE G. MEADE, MARYLAND 20755-5125

REPLY TO
ATTENTION OF:

INFORMATION PAPER

JACS-PC
8 November 2013

SUBJECT: Claims filed timely with TSP but transferred to MCO more than two years after delivery; submission to USARCS for Recovery

1. It has been determined by Mr. Nolan that we cannot consider a claim filed against the TSP, whether in DPS or outside of DPS, as also having been presented to the Army on the same date. Aside from strict legal considerations, there is a practical concern: if we considered every claim against the TSP to also be a claim under the PCA, we would have to keep track of, and act on, every single claim under the DP3 program. Even if the TSP settled with the claimant, we would have to confirm this and then deny the claim.

2. An important exception to the principle in paragraph 1 above is a situation in which the claimant has entered "Transfer to MCO" in the DPS claim module within two years of the date of delivery. We will consider that to be a sufficient demand for payment against the Government to satisfy the statute of limitations for the PCA.

3. If the member has not met the two year SOL, the Field Office must transfer the claim to USARCS for Recovery. USARCS will then pursue the entire amount of the claim, and turn over anything recovered to the claimant. The Government, as the party which entered into the contract with the TSP to ship the goods, has an independent right to recover on a claim for loss or damage to those goods.

4. The Field Office should completely adjudicate the TSP's liability, obtain the TSP's claim file, and gather any needed substantiation, before transferring the claim to USARCS.

5. The point of contact is the undersigned at steven.kelly1@us.army.mil or 301-677-9214.

STEVEN R. KELLY
Chief, Personnel Claims Branch

INFORMATION PAPER

JACS-PC
16 January 2013

SUBJECT: How to Determine the End of a Period of Time

1. AR 27-20, DA Pam 27-162, and the DP3 Claims and Liability Rules establish time periods within which certain actions must be completed, such as the giving of timely notice of loss and damage (75 days after delivery), or the filing of a claim (9 months to be eligible for FRV, or two years). Unfortunately, these authorities do not always provide the method for calculating these time periods, in particular when the period starts to run, and when it ends. However, DA Pam 27-162 does provide a means of calculating the 2 year SOL for claims under the PCA. Paragraph 11-7a(2) states that one should "exclude the first day and include the last day." This method is easy to apply, especially for time periods expressed in years because the end date is the same date, or anniversary, as the date when the claim accrued. The Pam gives this example: "...a Soldier's claim accrues on 18 January 1995. Normally, the claim must be presented ...on 18 January 1997."

2. In the absence of any other method specified for calculating a time period, you should use the method explained in paragraph 1 above. Please note that this rule does not, in and of itself, enable you to determine whether the time period is to be automatically extended if it falls on a Saturday, Sunday, or holiday. The Pam provides for this automatic extension of the SOL for presenting a claim under the PCA. But if the period ends on a weekend or holiday this automatic extension may or may not apply to time periods for other actions. You should not assume that there is an automatic extension for weekends and holidays, unless the authority (Reg, Pam DP3 Rules, etc.) establishing a given time period also specifically provides for such an automatic extension. The DP3 Rules do not provide for an automatic extension. It is important to keep this in mind because a claimant can submit notice or a claim using DPS, fax, email or snail mail on a weekend or holiday. But in regard to the mail, he may not be able to have it postmarked or obtain a receipt on Sundays or holidays. Neither does the rule provide for how to determine when a claim accrues, to whom notice or a claim must be sent, the method that must be used, or whether an extension of the period is warranted. These things are provided for in the DP3 rules or the Reg and Pam.

3. In addition to relative ease of application, the rule explained above ensures that the claimant has, for example, a full 75 days to submit timely notice. If the day of delivery were to be counted as the first day, the claimant would not have a full 24 hour day, but only as many hours as were left before midnight after delivery was complete.

4. Because most notices of loss and damage and claims for loss and damage to household goods are filed in DPS, which is at least theoretically available any time of the day or night, the time at which the last day of a time period ends is also an issue. DPS uses Greenwich Mean Time (also known as Zulu time). Because of this, in some cases a TSP has contended that the claimant exceeded the 75 day notice period when the claimant waited until the 75th day (in the time zone where he was located) to submit notice, but it was already after midnight using Greenwich

Mean Time. Although DPS may indicate that notice was late, we do not consider this a reasonable way to calculate the end of the 75 day period. In order to give the claimant a full 75 days (and also to avoid confusion on the part of the claimant), the time at which the 75th day ends (midnight) must be calculated using the time zone in which the delivery was made.

5. For a claim under the PCA, we have decided that a claimant has until midnight of the last day of the two year period to present his claim, despite a different rule (close of business) contained in the Pam. If the claimant uses PCLAIMS, it is easy to determine the time of presentation. If the claimant leaves a claim at the SJA office but does not give it to a person, the facts (including the claimant's own statement) must be evaluated on a case by case basis.

6. The point of contact is the undersigned at steven.kelly1@us.army.mil or 301-677-9214.

STEVEN R. KELLY
Chief, Personnel Claims Branch

DEPARTMENT OF THE ARMY
U.S. ARMY CLAIMS SERVICE
OFFICE OF THE JUDGE ADVOCATE GENERAL
4411 LLEWELLYN AVENUE SUITE 5360
FORT GEORGE G. MEADE, MARYLAND 20755-5125

REPLY TO
ATTENTION OF:

INFORMATION PAPER

JACS-PC
10 August 2012

1. SUBJECT: Inconvenience Claims and Claims for Essential Items

2. BACKGROUND: This information paper provides an explanation of inconvenience claims and claims for essential items, the distinction between them. References include the following:

a. Defense Transportation Regulation, Chapter 410, paragraph C;

b. DP3 Claims and Liability Rules, paragraph 2.11

3. It is important to distinguish between inconvenience claims, which are governed by Chapter 410, paragraph C, of the Defense Transportation Regulation (Encl 1) and claims for essential items which are "lost, destroyed or made unusable due to damage," governed by paragraph 2.11 of the Claims and Liability Rules (Encl 2).

a. An inconvenience claim is not a claim for the repair or replacement cost of an item of property. Rather, it is a claim for incidental expenses, such as lodging or meals, incurred because the shipment was not delivered on the required delivery date (RDD). It may be made against the TSP only. It is not compensable under the PCA because it is not for loss of or damage to personal property.

b. A claim for an essential item arises after delivery of the shipment has taken place, and the item is missing, destroyed, or damaged. Notice must be provided within 7 days of delivery. If not acted upon within 2 business days by the TSP, the claimant may transfer the claim for the essential item(s) to the MCO. All this is done outside of the DPS claims module.

c. Essential items are exempt from the rule in paragraph 2.7.3 that a TSP can require a member to accept delivery if a missing item is located within 60 days and the claim has not already been paid.

4. The point of contact is Mr. Steven Kelly at steven.kelly1@us.army.mil or 301-677-9214.

Approved by: Mr. Henry Nolan/301-677-9313

Enclosures

INSTRUCTIONS FOR IMPLEMENTING THE FRV "GAP" LEGISLATION

On 24 May 2012, the Secretary of the Army authorized Army military claims offices (MCO) to pay full replacement value (FRV) pursuant to the, so called, FRV "Gap" legislation. This authorization is retroactive to the date the legislation was signed into law, 7 January 2011. Every claim in which the delivery (or date of loss) was after that date must be evaluated to determine whether the FRV "Gap" legislation permits the MCO to pay FRV.

The FRV "Gap" legislation is located at title 10, United States Code, Section 2740. It is called "Gap" legislation because it allows the MCO to pay FRV in some situations where it will be impossible (or at least very difficult) for the claimant to receive FRV from the TSP, even if the claim is substantiated. It does not authorize payment of FRV in all or even most cases.

There are three situations in which you will apply the FRV "Gap" legislation (if, but only if, the shipment was covered by FRV in the GBL or other contractual vehicle under which the shipment was shipped or stored):

1. An exclusion exempts the TSP from liability for loss of or damage to some or all items.

    a. The most common exclusion, and most easily understood, is Act of God. For example, a hurricane destroys the warehouse in which claimant's shipment is located. We will pay under the PCA, but the TSP is not liable. Before the FRV "Gap" legislation, the claimant had no way to receive FRV. Now we can pay the member FRV, although obviously there will be no recovery. Some exclusions, such as Act of God, will usually apply to all items in a shipment. Other exclusions, such as inherent vice, will only apply to individual items. You may only pay FRV for items to which the exclusion applies.

    b. In this situation, the member does not have to file a claim for the items to which the exclusion applies with the TSP first. There would be no point in doing so as the TSP does not have to pay. However, sometimes the member will file with the TSP, which will then deny on the basis of an exclusion; the claim for those items should then be transferred to the MCO. You must then decide if the exclusion actually applies. If the TSP's denial was wrong, because there is no valid exclusion, send the file to USARCS for recovery. Similarly, if the member incorrectly believes an exclusion applies and files directly with the MCO, forward the claim to the TSP by hard copy immediately, and advise the claimant to file using DPS as well.

c. A list of exclusions is contained in the current DP3 Claims and Liability Rules, at paragraph 1.3. The URL is:
http://www.sddc.army.mil/PP/Defense%20Personal%20Property%20Program%20DP3/Full%20Replacement%20Value%20(FRV)/General%20Claims%20Liability.pdf

If you cannot access the rules with the URL, go to the SDDC website, www.sddc.army.mil.Then click on Personal Property on the left side of the page. Scroll down and click on Full replacement Value (FRV). Scroll down and click on General Claims Liability.

d. This list is not all inclusive. It is subject to change if and when SDDC makes changes to the DP3 rules. Additionally, we have decided that a TSP bankruptcy also counts as an exclusion.

2. Loss and damage caused by Ocean Carrier: You will rarely encounter a claim in which the Ocean Carrier caused the damage. If you do, treat it like an exclusion and follow the guidance above.

3. Denial by the Last Handler.

a. This only applies when multiple entities are responsible for the shipment. To pay FRV in this situation, the member first has to file with the TSP, and the TSP has to deny the claim "in whole or in part" on the grounds that a prior handler caused the damage. Note that not all of the items need to have been denied on this basis; if at least one item was denied for this reason, you may pay FRV for the whole claim.

b. Remember, most shipments are awarded by a GBL. The GBL TSP is liable, regardless of which of its agents may have caused the damage. But in some situations, like a DPM, or NTS, different companies take responsibility for the shipment at different stages. In these situations, the last handler is presumed to have caused the damage. But this presumption can be overcome by evidence. Unfortunately, often the last handler will deny liability, contending that a prior handler is responsible, whether or not there is any evidence to support this.

c. Another important point is that the shipment has to have been covered by FRV for at least one leg of the journey, but not all. If none of the handlers at any point was

contractually liable for FRV, then we cannot pay FRV under the Gap legislation. There should not be any shipments that are still not coverd by FRV by this point, but it sometimes still happens. Also, the leg of the journey which is covered by FRV does not have to be the one during which the damage occurred. That is important for our Recovery, but does not affect the claimant's right to receive FRV under the Gap legislation.

d. After you pay FRV for this reason, forward the claim to USARCS for recovery. The Recovery Branch will determine which handler is actually liable, thus relieving the member of that burden.

Every MCO must know how to determine whether this law applies to a particular claim. Special authorization from USARCS is not needed. Once you decide that the law applies, adjudicate the claim, but do not subtract depreciation from the replacement cost for any items which are lost or destroyed. "Destroyed", for FRV claims, means the repair cost exceeds the undepreciated replacement cost. Remember that the actual replacement cost will be higher than replacement cost minus depreciation, so you also will be paying a higher amount for repair in some instances. For example, a sofa costs $100 to repair. The sofa's replacement cost is $200. Under normal rules, using the ALDG, based on the age, it would depreciate 75%. Thus, you would pay $50, because the cost of repair is greater than (depreciated) value. But if the FRV"Gap" legislation applies, you will pay $100, because the repair is less than the full replacement cost.

You also will need to inform claimants who come to you for help in dealing with the TSP if they would be entitled to receive FRV if they transferred their claims. This may improve their bargaining position with the TSP. It also will likely reduce the amount of time wasted in negotiating with the TSP.

The FRV "Gap" legislation does not increase the monetary limits of your authority. If you determine that the FRV "Gap" legislation applies, you adjudicate the claim accordingly. If the amount payable exceeds your authority, you must forward the claim to the next higher authority that can pay that amount. However, if the full replacement value of an item exceeds the maximum allowable, that, in most cases, would be a basis for waiving it.

Please address any questions regarding FRV "Gap" legislation implementation to Mr. Steve Kelly, Chief, Personnel Claims Branch, PCRD, USARCS. His email address is: steven.r.kelly.civ@mail.mil.

JACS-PC 7 March 2013

MEMORANDUM FOR Army Field Claims Professionals

SUBJECT: Requests to Extend the 75 Day Notice Period

1. The most common and problematical issues I deal with in regard to claims against transportation service providers (TSP) for loss and damage to household good moves concern requests to extend[1] the normal 75 day notice of loss or damage period.

2. The following is an effort to clarify the rules that govern extensions, ensure that you and I have the information we need to make informed decisions, and let you know my thought process in deciding whether to grant the extension and for how long.

a. IAW paragraph 2.3.3.3 of the DP3 Claims and Liability Business Rules[2], the military claims office is permitted to extend the notice period for "good cause for the delay". Good cause "may include, but is not limited to officially recognized absence or hospitalization of the customer during all or a portion of the period of 75 calendar days from the date of delivery." The paragraph further states that, in the case of official absence, "the appropriate MCO will provide the delivering TSP with the proof of the officially recognized absence, and the additional days granted shall not exceed the period of official absence." In other words, for an official absence, the extension may only be granted on a day-for-day basis. Note that the day-for-day limitation does not apply to hospitalization.

b. Some other things about this paragraph also should be highlighted.

(1) First, while claims personnel, and TSPs, normally interpret "officially recognized absence" as TDY, and formal on-orders TDY, at that, the term is not limited to TDY. Indeed, deployment is an "officially recognized absence". Training also may be such an absence when it takes place under circumstances that, to a greater or lesser extent, replicate TDY or deployment, even though "official" orders have not been issued and the claimant is not receiving per diem or lodging reimbursement.

---

[1] The Army's field claims offices may grant extensions of the notice of damage period for good cause involving TDY and hospitalization. The Chief, PCRD has withheld the authority to grant extensions for all other good cause except TDY and hospitalization.

[2] The Defense Personnel Property Program Claims and Liability Business Rules contains detailed rules based on the personal property shipment solicitation and contract and agreed to by the TSPs, the military services claims services and SDDC. The rules provide the TSPs and claims services guidance for handling claims pursuant to the Full Replacement Value Program established by 10 USC Sec. 2636a. These rules should be distinguished from the current guidance set forth in AR 27-20 and DA Pam 27-162 which apply to the handling of claims pursuant to the Personnel Claims Act, 31 USC, Sec. 3721.

Note that this type of training normally would not include mere long office hours[3] or absence from the office on road trips during the day while returning home at night[4]. However, such training probably would include a multi-day on-post training exercise where the Member is not permitted to leave the training area until ENDEX. Under these circumstances, the Member would have no more ability to deal with his or her claim during the exercise than if they were halfway around the world on a formal TDY. When granting an extension because of this type of training, I consider it and refer to it as "the functional equivalent of TDY".

(2) Second, when granting an extension request based on official absence, we are required to provide proof of the absence and its official nature. This you normally must obtain from the claimant. It can include orders or a detailed statement signed by the claimant's commander or other responsible official, or like documentation. The "proof" should include the dates of the absence and any travel time involved. TDY and deployment orders do not normally include travel time, but based on the location of the TDY or deployment vis-à-vis the home station, reasonable travel time on each end of the absence may be inferred.

(3) Third, in regard to hospitalization, although the paragraph does not specifically require that proof be provided to the TSP, it is the better practice to request that the claimant provide evidence to substantiate the hospitalization and its length. Additionally, the extension for hospitalization may not be limited to "day-for-day" because we recognize that the actual period of claimant disability (for our purposes, the inability to reasonably deal with a claim) often both precedes and follows the hospital stay. Under these circumstances, evidence of the pre-hospital and recuperation time should be obtained from the claimant and included in the file (Note, the claimant should be clearly informed in writing that the medical information or documentation may be disclosed to the TSP in order to support the extension).

(4) Fourth, in other instances, a claimant may be suffering from a debilitating disease or physical injury or condition that, while not requiring hospitalization, reasonably prevents him or her from opening boxes and

---

[3] I recently approved an extension where the claimant's commander verified that, for substantial parts of the period, the claimant was working repeated extremely long 14 and 15 hour or more days for consecutive days at a time. I reasoned that under these circumstances the member truly might as well have been away from home, as he barely would have had time to eat and get a short night's sleep before heading to work again the next morning. Normally, however, the general rule holds.

[4] About the same time as I approved the extension referred to in FN3, I denied an extension request from a Sergeant Major who spent a good part of the notice period on day trips visiting his units. When he returned to the office, he still had catch-up work to do before going home for the evening at sometime past normal business hours. While he worked long hours, I did not consider them so onerous as to be the equivalent of TDY. As I said in my denial, almost any Soldier in mid-grade or higher leadership or supervisory position could say the same thing about long hours, especially early in the assignment. However, that it is why the notice period is 75 days and not the one day to a maximum of 15 days found in normal private household goods move contracts.

otherwise preparing a claim. Finally, a claimant's family-member may be the one suffering the illness or injury under circumstances where the claimant is the primary care giver during off-duty time to the extent that preparing a claim is, again, not reasonable.

Note that when dealing with periods not involving actual hospitalization, the claimant's condition must be more than feeling "under the weather",[5] even more so when the situation involves the family member. In these instances, also, you must obtain reasonably detailed evidence from the claimant to support the extension. Similar to my conclusion when dealing with official absence, when I am convinced that the length and impact of the non-hospitalization period of disability is substantiated, I also consider it the "functional equivalent of hospitalization".

c. The situations noted above are the most common ones that give rise to requests to extend the notice period. However, they should not be considered the only possible ones. If you are faced with a claimant that has a unique and apparently meritorious reason for missing the notice period, but it does not fit neatly into the above scenarios, do not dismiss it out of hand. Investigate, gather your facts, evaluate and forward the request. Remember it never hurts to ask!

d. Finally, this memo would not be complete without addressing one of the most frequent reasons claimants request an extension of the notice period, i.e., they have had significant problems using the DPS Claims Module. Because the DPS Claims Module is a US Government program, none of its faults or glitches can be laid at the feet of the TSPs. Consequently, regardless of the problems a claimant may have had with the program, whether believing that a claim or notice of damage has been submitted when it has only been "created", or general difficulties in accessing the program, or other issues, none justify extending the notice of damage period.

However, the DPS Claims Module is a US Government program and claimants are told they must use it (whether technically true or not[6]). Accordingly, I have viewed claimants' problems with the DPS Claims Module as the electronic version of receiving misinformation regarding the notice period from government personnel pursuant to Paragraph 11-14 i.(3)(b). In view of that, I normally permit the claim to be paid at fair market (depreciated) value without deduction of lost potential carrier recovery (PCR).

---

[5] In regard to a claimant whose doctor verified that he had PTSD, I asked for additional information regarding the manifestation of the PTSD and how it interfered with the claimant's ability to deal with the claim.

[6] Claimants are specifically permitted to submit a notice of loss and damage after delivery via mail, fax, or email, without the need to obtain a waiver of the requirement to use the DPS Claims Module for this purpose, and this guidance is stated on the Notice of Loss and Damage AT Delivery form. However, this has been ignored and even countermanded by Transportation Office personnel and the DPS Help Desk who all too frequently tell the claimants they must use the module, even when it obviously does not work. This is just one of the many reasons we urge field claims staff to ensure that Transportation Offices refer claimants to the claims office in regard to <u>any</u> question about claims.

d. One last thing, when you send to USARCS a request to extend the notice period, PLEASE note the purpose of the email and the claimant's name in the subject line, e.g., Notice Period Extension-Jones SFC, or Waiver of 75 day period - SFC Jones, etc. This will call attention to it and help prevent it from getting lost in the clutter. It will also assist in locating the request if it does get misplaced. Additionally, don't wait for me to send you an email back asking for things like TDY orders and other matters that are needed. Please include all the information you have gathered in your effort to help the claimant and set out a timeline with the relevant dates. That will make processing your request and arriving at a decision much quicker and easier.

3. In conclusion, I hope the above explanation of the notice of damage extension provisions and my thought process in dealing with requests when they come to me is helpful to you and aids you in seeking and gathering the information you and I need to make informed decisions that help claimants to the greatest extent possible. I also hope that this encourages you to look beyond the obvious in an effort to assist claimants to be made as whole as possible.

4. If you have any questions that you want to address directly to me, my email is: john.h.nolan.civ@mail.mil and my phone number is: (301) 677-9213 (DSN 622). As always, thank you for all you do to help Soldiers.

Henry Nolan
Chief
Personnel Claims and
Recovery Division

DEPARTMENT OF THE ARMY
U.S. ARMY CLAIMS SERVICE
OFFICE OF THE JUDGE ADVOCATE GENERAL
4411 LLEWELLYN AVENUE SUITE 5360
FORT GEORGE G. MEADE, MARYLAND 20755-5125

REPLY TO
ATTENTION OF:

INFORMATION PAPER

JACS-PC
29 March 2013

SUBJECT: TSP's Right to Salvage under DP3

1. The provision on salvage in the DP3 rules is at Section 2.7.4. It states, in pertinent part:

"The TSP must take possession of salvage items, at the customer's residence, or other location acceptable to the customer, not later than 30 days after receipt of a complete claim from either the customer or the MCO. However, in no case will the 30 day period for the TSP to take possession end until after the period allowed for the TSP's inspections."

2. The effect of this provision is that if the member files with the TSP for a certain item, but the claim is not settled between them, then the TSP has no salvage rights to that item. Before direct settlement with the TSP, the TSP had no chance to settle for an item until after the claims office had paid the member, and then the Government submitted a recovery demand. But now it has the chance to pay for the item after it receives the claim directly from the member. If it does not pay the member, it does not have the right to salvage for that item, even if, way down the line, we are able to recover for it.

3. The procedure described above is the only practical one in a system involving direct settlement between the member and the TSP. It is not reasonable to require a member to retain possession of a destroyed item for an indefinite, possibly lengthy, period of time. In addition, many of the DP3 Claims rules are designed to encourage the TSP to settle with the member, and to impose a penalty if it does not. This is one instance of that principle at work.

4. If the MCO has paid for the item, either depreciated value, or FRV if the Gap statute applies, the Army has the right to take possession of the item. However, based on my experience, in many cases the item is not worth the time and effort to take possession of it and get it to the local Defense Reutilization Management Office. There is no requirement that the Army retain possession of the item in order for the TSP to exercise salvage if it is held liable for the item in the recovery process.

5. The point of contact is the undersigned at steven.kelly1@us.army.mil or 301-677-9214.

STEVEN R. KELLY
Chief, Personnel Claims Branch