

submission may be made unless authorized by the judge.

§ 6103.6 Decisions [Rule 306].

The judge will issue a written decision based upon the record, which includes submissions by the claimant, OTA, and the agency, and information provided during conferences. The claimant, OTA, and the agency will each be furnished a copy of the decision by the Office of the Clerk of the Board. In addition, all Board decisions are posted weekly on the Internet. The Board's Internet address is: www.gsbca.gsa.gov.

§ 6103.7 Reconsideration of Board decision [Rule 307].

A request for reconsideration may be made by the claimant, OTA, or the agency. Such requests must be received by the Board within 30 calendar days after the date the decision was issued (or within 60 calendar days after the date the decision was issued, if the claimant or agency office making the request is located outside the 50 states and the District of Columbia). The request for reconsideration should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for seeking reconsideration.

§ 6103.8 Payment of successful claims [Rule 308].

The agency for which the services were provided shall pay amounts the Board determines are due the claimant.

Dated: May 7, 1997.

Stephen M. Daniels,
Chairman, GSA Board of Contract Appeals.
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GENERAL SERVICES ADMINISTRATION

48 CFR Part 6104

RIN 3090-AG06

Board of Contract Appeals; Rules of Procedure for Travel and Relocation Expenses Cases

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Final rule.

SUMMARY: This document specifies the rules of procedure of the GSA Board of Contract Appeals applicable to the Board's review of claims made by federal civilian employees against the United States for reimbursement of expenses incurred while on temporary duty travel or in connection with

relocation to a new duty station. The rules are intended to implement section 201(n)(3) of the General Accounting Office Act of 1996 (Pub. L. 104-316), which transferred the authority to resolve these claims to the Administrator of General Services, who has redelegated that function to the Board.

EFFECTIVE DATE: This regulation is effective May 12, 1997.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, telephone (202) 501-0272, Internet address: Margaret.Pfunder@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The General Services Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

C. Effective Date

These rules are applicable to all travel and relocation expenses cases filed on or after May 12, 1997.

D. Background

On July 26, 1996, the Board published in the **Federal Register** (61 FR 39098) an interim rule specifying the rules of procedure the Board would apply to its review of claims made by federal civilian employees against the United States for reimbursement of expenses incurred while on temporary duty travel or in connection with relocation to a new duty station. The Board invited written comments on the interim rules. The rules were intended to implement section 211 of the Legislative Branch Appropriations Act, 1996 (Pub. L. 104-53), which, effective June 30, 1996, transferred certain functions of the Comptroller General to the Director of the Office of Management and Budget (OMB), and authorized the Director to delegate any of those functions to another agency or agencies. Effective the same date, the Director delegated the function contained in 31 U.S.C. 3702—the authority to review travel and relocation expenses claims—to the Administrator of General Services, who

redelegated that function to the GSA Board of Contract Appeals.

On October 19, 1996, Congress enacted the General Accounting Office Act of 1996 (Pub. L. 104-316). Section 201(n)(3) of that Act directly transfers the authority of the Comptroller General to resolve travel and relocation expenses claims under 31 U.S.C. 3702 to the Administrator of General Services, who has continued to delegate this function to the Board. In addition, the Administrator of General Services has delegated to the Board the authority to adopt and issue rules necessary for the resolution of these claims. This final rule has been adopted by vote of the Board's judges.

E. Summary of Comments and Changes

The Board received no written comments on the interim rules. The Board's judges, however, agreed on a number of revisions to the rules which should improve the current, interim procedures used to resolve travel and relocation expenses claims filed with the Board. These revisions are discussed below in a section-by-section format.

Section 6104.1 (Scope)

Section 6104.1(a) has been changed to reference the current statutory authority under which the Board resolves travel and relocation expenses claims.

Section 6104.2 (Filing Claims)

In order to facilitate the filing and processing of claims, Section 6104.2(a)(3) now provides the Board's mailing address and working hours. Section 6104.2(c) now requires that all submissions to the Board by a claimant or an agency must indicate that a copy has been provided to the other party. This exchange of information provided to the Board permits an informed and timely response or reply to a claim and an expeditious resolution of the claim.

Section 6104.3 (Response to Claim)

This rule has been revised in two ways. First, if the agency office involved with a claim is located outside the 50 states and District of Columbia, the rule increases from 30 to 60 calendar days after docketing the time an agency has to respond to the claim. In the Board's experience, agencies located outside the United States have generally needed this additional time to receive and respond to claims. Second, in order to expedite proceedings, the rule now provides that the agency should notify the Board and the claimant if the agency does not intend to file a response; e.g., the agency may believe that the Board has been provided all relevant material (factual and legal) and that the agency's

reasons for denying the claim are sufficiently explained in the material filed by the claimant. If the Board knows that the agency is not filing a response, it may proceed with resolving the claim rather than waiting for the response period to expire.

Section 6104.4 (Reply to Agency Response)

This rule has been revised to increase from 10 to 30 calendar days after receiving the agency response the time in which a claimant may file a reply to the response (60 calendar days for a claimant located outside the United States). The Board has concluded that 10 days often is too short a time period for a reply, and that claimants located outside the United States needed the longer time in which to receive responses and submit replies. In addition, the rule now addresses the situation in which the claim has been forwarded by the agency on behalf of the claimant (section 6104.2(a)(2)), and gives the claimant 30 calendar days from the date the claim is docketed by the Board (60 calendar days if the claimant is located outside the United States) to reply. Finally, in order that the Board may proceed with resolving the claim rather than waiting for the reply period to expire, the rule now provides that the claimant should notify the Board and the agency if the claimant does not wish to reply.

Section 6104.5 (Proceedings)

Section 6104.5(a) has been added to clarify that the claimant or the agency may request the Board to grant additional time to make any filing. However, the Board may not expand time limits established by statute.

Section 6104.6 (Decisions)

In response to inquiries by claimants as to whether decisions have been issued and simply not forwarded, the rule makes explicit that it has been and is the Board's practice to furnish the claimant and the agency each with a copy of the decision. The rule also explains that the Board's decisions are posted weekly on the Internet, and provides the Board's Internet address.

Section 6104.7 (Reconsideration of Board Decision)

The rule has been revised to increase from 15 to 30 calendar days (or 60 calendar days if the claimant or the agency making the request is located outside the United States) after the date the Board's decision was issued the time in which either a claimant or an agency may request reconsideration of the decision.

List of Subjects in 48 CFR Part 6104

Administrative practice and procedure, Government procurement, Travel and transportation expenses.

For the reasons set out in the preamble, 48 CFR Part 6104 is revised to read as follows:

PART 6104—RULES OF PROCEDURE FOR TRAVEL AND RELOCATION EXPENSES CASES

Sec.

- 6104.1 Scope [Rule 401].
- 6104.2 Filing claims [Rule 402].
- 6104.3 Response to claim [Rule 403].
- 6104.4 Reply to agency response [Rule 404].
- 6104.5 Proceedings [Rule 405].
- 6104.6 Decisions [Rule 406].
- 6104.7 Reconsideration of Board decision [Rule 407].
- 6104.8 Payment of successful claims [Rule 408].

Authority: 31 U.S.C. 3702; 41 U.S.C. 601–613; Sec. 201(n)(3), Pub. L. 104–316, 110 Stat. 3826.

§ 6104.1 Scope [Rule 401].

(a) *Authority.* These procedures govern the Board's resolution of claims by federal civilian employees for certain travel or relocation expenses that were formerly settled by the Comptroller General under 31 U.S.C. 3702. Section 201(n)(3) of the General Accounting Office Act of 1996, Public Law 104–316, transfers the authority to resolve these claims to the Administrator of General Services, who has redelegated that function to the General Services Administration Board of Contract Appeals. The requirements contained in 31 U.S.C. 3702, including limitations on the time within which claims may be filed, apply to the Board's review of these claims.

(b) *Types of claims.* These procedures are applicable to the review of two types of claims made against the United States by federal civilian employees:

- (1) Claims for reimbursement of expenses incurred while on official temporary duty travel; and
- (2) Claims for reimbursement of expenses incurred in connection with relocation to a new duty station.

(c) *Review of claims.* Any claim for entitlement to travel or relocation expenses must first be filed with the claimant's own department or agency (the agency). The agency shall initially adjudicate the claim. A claimant disagreeing with the agency's determination may request review of the claim by the Board. The burden is on the claimant to establish the timeliness of the claim, the liability of the agency, and the claimant's right to payment. The Board will issue the final decision on a claim based on the information

submitted by the claimant and the agency.

§ 6104.2 Filing claims [Rule 402].

(a) *Filing claims.* A claim may be sent to the Board in either of the following ways:

(1) *Claim filed by claimant.* A claim shall be in writing and must be signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The request should describe the basis for the claim and state the amount sought. The request should also include:

(i) The name, address, telephone number, and facsimile machine number, if available, of the claimant;

(ii) The name, address, telephone number, and facsimile machine number, if available, of the agency employee who denied the claim;

(iii) A copy of the denial of the claim; and

(iv) Any other information which the claimant believes the Board should consider.

(2) *Claim forwarded by agency on behalf of claimant.* If an agency has denied a claim for travel or relocation expenses, it may, at the claimant's request, forward the claim to the Board. The agency shall include the information required by paragraph (a)(1) of this section and by § 6104.3.

(3) *Where claims are filed.* A claim should be sent to the Board at the following address: Office of the Clerk of the Board, Room 7022, General Services Administration Building, 1800 F Street, NW, Washington, DC 20405. The Clerk's telephone number is: (202) 501–0116. The Clerk's facsimile machine number is: (202) 501–0664. The Board's working hours are 8:00 a.m. to 4:30 p.m., Eastern Time, on each day other than a Saturday, Sunday, or federal holiday.

(b) *Notice of docketing.* A request for review will be docketed by the Office of the Clerk of the Board. A written notice of docketing will be sent promptly to the claimant and the agency contact. The notice of docketing will identify the judge to whom the claim has been assigned.

(c) *Service of copy.* The claimant shall send to the agency employee identified in paragraph (a)(1)(ii) of this section, or the individual otherwise identified by the agency to handle the claim, copies of all material provided to the Board. If an agency forwards a claim to the Board, it shall, at the same time, send to the claimant a copy of all material sent to the Board. All submissions to the Board shall indicate that a copy has been provided to the claimant or the agency.

§ 6104.3 Response to claim [Rule 403].

(a) *Content of response.* When a claim has been filed with the Board by a claimant, within 30 calendar days after docketing by the Board (or within 60 calendar days after docketing, if the agency office involved is located outside the 50 states and the District of Columbia), the agency shall submit to the Board:

- (1) A simple, concise, and direct statement of its response to the claim;
- (2) Citations to applicable statutes, regulations, and cases; and
- (3) Any additional information deemed necessary to the Board's review of the claim.

(b) *Service of copy.* A copy of these submissions shall also be sent to the claimant. To expedite proceedings, if the agency believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant, it should notify the Board and the claimant that it does not intend to file a response.

§ 6104.4 Reply to agency response [Rule 404].

A claimant may file a reply to the agency response within 30 calendar days after receiving the response (or within 60 calendar days after receiving the response, if the claimant is located outside the 50 states and the District of Columbia). If the claim has been forwarded by the agency, the claimant shall have 30 calendar days from the time the claim is docketed by the Board (or 60 calendar days after docketing, if the claimant is located outside the 50 states and the District of Columbia) to reply. To expedite proceedings, if the claimant does not wish to reply, the claimant should so notify the Board and the agency.

§ 6104.5 Proceedings [Rule 405].

(a) *Requests for additional time.* The claimant or the agency may request additional time to make any filing.

(b) *Conferences.* The judge will not engage in ex parte communications involving the underlying facts or merits of the claim. The judge may hold a conference with the claimant and the agency contact, at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(c) *Additional submissions.* The judge may require the submission of additional information at any time.

§ 6104.6 Decisions [Rule 406].

The judge will issue a written decision based upon the record, which includes submissions by the claimant and the agency, and information

provided during conferences. The claimant and the agency will each be furnished a copy of the decision by the Office of the Clerk of the Board. In addition, all Board decisions are posted weekly on the Internet. The Board's Internet address is: www.gsbca.gsa.gov.

§ 6104.7 Reconsideration of Board decision [Rule 407].

A request for reconsideration may be made by the claimant or the agency. Such requests must be received by the Board within 30 calendar days after the date the decision was issued (or within 60 calendar days after the date the decision was issued, if the claimant or the agency office making the request is located outside the 50 states and the District of Columbia). The request for reconsideration should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for seeking reconsideration.

§ 6104.8 Payment of successful claims [Rule 408].

The agency shall pay amounts the Board determines are due the claimant.

Dated: May 5, 1997

Stephen M. Daniels,
Chairman, GSA Board of Contract Appeals.
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**GENERAL SERVICES
ADMINISTRATION****48 CFR Parts 6104 and 6105**

RIN 3090-AG29

**Board of Contract Appeals; Rules of
Procedure for Decisions Authorized
Under 31 U.S.C. 3529**

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Final rule.

SUMMARY: This document specifies the procedures the GSA Board of Contract Appeals will apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty travel or in connection with relocation to a new duty station.

EFFECTIVE DATE: This regulation is effective May 12, 1997.

FOR FURTHER INFORMATION CONTACT:
Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, telephone (202) 501-0272, Internet address: Margaret.Pfunder@gsa.gov.

SUPPLEMENTARY INFORMATION:**A. Regulatory Flexibility Act**

The General Services Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

C. Effective Date

These rules are applicable to all Board-issued decisions authorized under 31 U.S.C. 3529 filed on or after May 12, 1997.

D. Background

On December 20, 1996, the Board published in the **Federal Register** (61 FR 67241) an interim rule specifying the rules of procedure the Board would apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty travel or in connection with relocation to a new duty station. Such a decision is referred to by the rules as a "Section 3529 decision." The Board invited written comments on the interim rules.

The rules were intended to implement section 204 of the General Accounting Office Act of 1996 (Pub. L. 104-316) (GAO Act), which, by amending 31 U.S.C. 3529, transferred the authority of the Comptroller General to make decisions on agency questions regarding payment or certification of vouchers which involved federal civilian employees' travel and relocation expenses, to the Administrator of General Services, who redelegated that function to the GSA Board of Contract Appeals. When issued by the Comptroller General, these decisions were commonly known as "advance