

§ 1642.6 Acceptance of reimbursement from a client.

(a) When a case results in a recovery of damages or statutory benefits, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case, if the client has agreed in writing to reimburse the recipient for such costs and expenses out of any such recovery.

(b) A recipient may require a client to pay court costs when the client does not qualify to proceed *in forma pauperis* under the rules of the jurisdiction.

§ 1642.7 Recipient policies, procedures and recordkeeping.

The recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

Dated: May 7, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97-12404 Filed 5-9-97; 8:45 am]

BILLING CODE 7050-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 76**

[CS Docket No. 96-60; FCC 97-27]

Cable Television Leased Commercial Access

AGENCY: Federal Communications Commission.

ACTION: Final rule; establishment of effective date.

SUMMARY: The Commission's amendments to 47 CFR 76.970 (c), (d), (e), (f), (g), (h), 76.971(f)(1), 76.975 (b) and (c), which contained information collection requirements, shall become effective May 12, 1997. These amendments, which were published in the **Federal Register** of March 12, 1997, relate to implementation of the leased commercial access provisions of the 1992 Cable Act.

EFFECTIVE DATE: The amendments to 47 CFR 76.970 (c), (d), (e), (f), (g), (h), 76.971(f)(1), 76.975 (b) and (c) published at 62 FR 11364 shall become effective May 12, 1997.

FOR FURTHER INFORMATION CONTACT: Julie Buchanan, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION:

1. On January 31, 1997, the Commission adopted an order revising

its leased commercial access rules, a summary of which was published in the **Federal Register**. See 62 FR 11364, March 12, 1997. The Commission's rule changes that did not impose new or modified information collection requirements became effective April 11, 1997. However, because they imposed new or modified information collection requirements, the amendments to 47 CFR 76.970 (c), (d), (e), (f), (g), (h), 76.971(f)(1), 76.975 (b) and (c) could not become effective until approved by the Office of Management and Budget ("OMB"), and no sooner than April 11, 1997. OMB approved these rule changes on April 17, 1997.

2. The **Federal Register** summary stated that the Commission would publish a document establishing the effective date of the rule changes requiring OMB approval. This statement suggests that further action by the Commission is necessary to establish the effective date, notwithstanding the preceding statement in the summary that the rule changes imposing new or modified information collection requirements would become effective upon OMB approval. See 62 FR 11365, March 12, 1997. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the amendments to 47 CFR 76.970 (c), (d), (e), (f), (g), (h), 76.971(f)(1), 76.975 (b) and (c) shall become effective May 12, 1997. This publication satisfies the statement that the Commission would publish a document establishing the effective date of the rule changes requiring OMB approval.

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97-12279 Filed 5-9-97; 8:45 am]

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GENERAL SERVICES ADMINISTRATION**48 CFR Part 6103**

RIN Number 3090-AG05

Board of Contract Appeals; Rules of Procedure for Transportation Rate 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 a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The rules are intended to implement section 201(o) 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 Dates

These rules are applicable to all transportation rate cases filed on or after May 12, 1997.

D. Background

On July 26, 1996, the Board published in the **Federal Register** (61 FR 39096) an interim rule specifying the rules of procedure the Board would apply to its review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). 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. 3726(g)(1)—the authority to review rate

claims of a carrier or freight forwarder—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(o) of that Act directly transfers the authority of the Comptroller General to resolve transportation rate claims under 31 U.S.C. 3726(g)(1) 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 written comments on the interim rules from three commentators. Commentators included two motor freight carriers and an association of motor freight carriers. The Board carefully considered these comments, and adopted a number of the suggestions made by the commentators. One commentator made no specific comments, but simply expressed approval of the transfer of transportation rate claims from the Comptroller General to the Administrator of General Services. The other two commentators supported the interim rules and, in general, suggested that some of the rules be more detailed. Their comments and any revisions made, are discussed below in a section-by-section format.

Section 6103.2 (Filing Claims)

Two commentators suggested that the rule should state when a claim is timely filed and/or provide a certain time by which the Board must acknowledge receipt of a claim. They also suggested that the rule permit filing a claim with the Board by facsimile transmission. In response to these comments, the Board has added paragraph (b) to Section 6103.2, which provides that a claim is filed when a written copy is received by the Office of the Clerk of the Board during the Board's working hours. Filing has been and is permitted by facsimile transmission. All Board cases are date-stamped upon receipt and docketed within one to two working days of receipt. In addition, the notice of docketing sent to the claimant, OTA, and the agency states the date the claim was filed with the Board. A claimant will thus be able to verify the date the Board received the claim. In order to facilitate the filing of claims, the address and the telephone and facsimile machine numbers of the Clerk's office

are provided, as are the Board's working hours.

Section 6103.3 (Responses to Claims)

The Board made three changes to this section. First, the Board revised the rule to increase from 30 to 60 calendar days after docketing the time the agency has to respond to the claim, if the agency office for which the services were provided is located outside the United States. In the Board's experience, agency offices located outside the United States have generally needed this additional time to receive and respond to claims.

Second, the Board has redrafted Section 6103.3 to provide that all responses submitted to the Board must indicate that a copy has been provided to the claimant. Both commentators stated that the rule should include some type of proof of service provision; one commentator wanted the rule to provide for sanctions in the event that a party failed to serve its submission on all participants. The Board believes that the rule as revised is sufficient to ensure service on the claimant, and that more formal proof of service requirements and specified sanctions are unnecessary. Should the need arise, the judge to whom a case is assigned may determine how to enforce the service requirements. The Board has also added a parallel service of copy requirement to paragraph (d) of Section 6103.2, which requires the claimant to send to OTA and the agency a copy of all material provided to the Board, and to indicate on all submissions to the Board that a copy has been provided to OTA and the agency.

Third, in order to expedite proceedings, Section 6103.3 now provides that, if either OTA or the agency does not wish to file a response, it should so notify the Board and the claimant. If the Board knows that OTA and/or the agency is not filing a response, it may proceed with resolving the claim rather than waiting for the response period to expire.

Section 6103.4 (Reply to OTA and Agency Responses)

This rule has been redrafted to require a claimant wishing to reply to the OTA and agency responses to file and serve the reply within 30 calendar days after receiving the responses (or within 60 days if the claimant is located outside the United States). The interim rule required a claimant first to notify the Board within 10 days after receiving the responses that it wished to file a reply, and then to have the judge establish when the reply was due. One commentator suggested that 10 days was too short a time to determine whether to

file a reply. The Board agrees, and has increased the amount of time for a reply to 30 days, the amount of time given OTA and the agency to file responses to a claim. The Board also concluded that it is appropriate to permit a reply in all cases, such that each judge need not make a case-by-case determination.

Both commentators were concerned that the exact date a carrier received the responses would not be known with certainty by the Board, and that either the date the response was mailed to the Board or the date shown in a certificate of service should be determinative. The Board did not incorporate either of these suggestions in the final rule; such formality is unnecessary, given the time frames established in the rules. The carrier will be aware of its receipt date(s), and, therefore, can determine when a reply is due.

Section 6103.5 (Proceedings)

The Board added paragraph (a) to this section to clarify that the claimant, OTA, or the agency may request additional time to make any of the filings required or permitted by the rules. However, the Board may not expand time limits established by statute. Both commentators suggested that the rules should provide for discovery, citing the carriers' past inability to obtain documents and other information possessed by the Government needed to prove entitlement to payment. The commentators and Board practice have not demonstrated a need for a rule on discovery. Under Section 6103.5(c), judges retain the flexibility to require participants to submit necessary additional information.

Section 6103.6 (Decisions)

In response to the suggestions made by both commentators, this section makes explicit that it has been and is the Board's practice to furnish the participants with a copy of the Board's decision. The revised rule also explains that the Board's decisions are posted weekly on the Internet, and provides the Board's Internet address.

Section 6103.7 (Reconsideration of Board Decision)

Both commentators suggested that 15 calendar days after the date a decision is issued was too short a time in which to prepare a request for reconsideration. The Board agrees, and has lengthened the time to 30 days after the date the decision was issued, or to 60 days if the claimant or agency office making the request is located outside the United States. One commentator suggested that all of the Board's rules relating to

reconsideration of contract appeals be incorporated into the rules for transportation rate cases. Neither the statute nor the Board envisions these cases as formal, judicial proceedings. Specifically structured reconsideration procedures are unnecessary. However, as made clear in the revised rule, a request for reconsideration should not be a routine practice in these cases. A request for reconsideration must be premised on more than reargument or disagreement.

Section 6103.8 (Payment of Successful Claims)

Both commentators suggested that Section 6103.8 should provide that an agency must pay any amount found due by the Board within 30 days of the date of the Board's decision. Such a requirement comports with the requirement of the Prompt Payment Act, 31 U.S.C. 3903, that payment is due 30 days after the date the invoice is received by the agency. The Board concludes that this matter is not appropriately resolved by a rule of procedure, and that an agency receiving the Board's final administrative decision on a claim will in fact promptly pay any amount found owing the claimant, in accordance with applicable statutes.

List of Subjects in 48 CFR Part 6103

Administrative practice and procedure, Freight forwarders, Government procurement.

For the reasons set out in the preamble, 48 CFR Part 6103 is revised to read as follows:

PART 6103—RULES OF PROCEDURE FOR TRANSPORTATION RATE CASES

Sec.

6103.1 Scope [Rule 301].

6103.2 Filing claims [Rule 302].

6103.3 Responses to claims [Rule 303].

6103.4 Reply to OTA and agency responses [Rule 304].

6103.5 Proceedings [Rule 305].

6103.6 Decisions [Rule 306].

6103.7 Reconsideration of Board decision [Rule 307].

6103.8 Payment of successful claims [Rule 308].

Authority: 31 U.S.C. 3726(g)(1); 41 U.S.C. 601–613. Section 201(o), Pub. L. 104–316, 110 Stat. 3826.

§ 6103.1 Scope [Rule 301].

(a) *Authority.* Section 201(o) of the General Accounting Office Act of 1996, Public Law 104–316, transfers certain functions of the Comptroller General contained in 31 U.S.C. 3726(g)(1) to the Administrator of General Services, who has redelegated those functions to the General Services Administration Board of Contract Appeals.

(b) Type of claim; review of claim.

These procedures are applicable to the review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The Board will issue the final agency decision on a claim based on the information submitted by the claimant, the General Services Administration Office of Transportation Audits (OTA), and the department or agency (the agency) for which the services were provided. The burden is on the claimant to establish the timeliness of its claim, the liability of the agency, and the claimant's right to payment.

§ 6103.2 Filing claims [Rule 302].

(a) *Form.* 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:

- (1) The name, address, telephone number, and facsimile machine number, if available, of the claimant;
- (2) The Government bill of lading or Government transportation request number;
- (3) The claimant's bill number;
- (4) The Government voucher number and date of payment;
- (5) The OTA claim number;
- (6) The agency for which the services were provided; and
- (7) Any other identifying information.

(b) When and where claims are filed.

A claim is filed when it is received by the Office of the Clerk of the Board during the Board's working hours. Claims 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.

(c) *Notice of docketing.* A claim will be docketed by the Office of the Clerk of the Board, and a written notice of docketing will be sent promptly to the claimant, the Director of OTA, and the agency for which the services were provided. The notice of docketing will identify the judge to whom the claim has been assigned.

(d) *Service of copy.* The claimant shall send to OTA and the agency identified in paragraph (a)(6) of this section copies of all material provided to the Board. All submissions to the Board by a

claimant shall indicate that a copy has been provided to OTA and the agency.

§ 6103.3 Responses to claims [Rule 303].

(a) *Content of responses.* Within 30 calendar days after docketing by the Board (or within 60 calendar days after docketing if the agency office for which the services were provided is located outside the 50 states and the District of Columbia), OTA and the agency for which the services were provided shall each 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.* All responses submitted to the Board shall indicate that a copy has been sent to the claimant and to OTA or the agency, as appropriate. To expedite proceedings, if either OTA or the agency will not file a response (e.g., it believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant), it should notify the Board, the claimant, and OTA or the agency, as appropriate, that it does not intend to file a response.

§ 6103.4 Reply to OTA and agency responses [Rule 304].

A claimant may file with the Board and serve on OTA and the agency a reply to the OTA and agency responses within 30 calendar days after receiving the responses (or within 60 calendar days after receiving the responses, if the claimant is located outside the 50 states and the District of Columbia). To expedite proceedings, if the claimant does not wish to respond, the claimant should so notify the Board, OTA, and the agency.

§ 6103.5 Proceedings [Rule 305].

(a) *Requests for additional time.* The claimant, OTA, 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, OTA, and the agency at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(c) *Submissions.* The judge may require the submission of additional information at any time. The claimant, OTA, or the agency may request an opportunity to make additional submissions; however, no such

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.
[FR Doc. 97-12382 Filed 5-9-97; 8:45 am]
BILLING CODE 6820-34-P

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