

<b>DEPARTMENTAL REGULATION</b>		Number: 2510-002
SUBJECT: Claims Against the United States Which Must Be Submitted to GAO	DATE: June 12, 1985	
	OPI: Office of Finance and Management	

1 PURPOSE

This regulation prescribes procedures for handling claims against the United States arising from Department of Agriculture programs and activities which must be submitted to the General Accounting Office for adjudication.

2 DEFINITIONS

a In this regulation, "agency" means a major line or program unit or staff office of the Department whose head reports to the Secretary, an Under Secretary, or Assistant Secretary.

b Generally, in the statutory and regulatory authorities cited in this regulation, "agency" means a department in the executive branch of the Federal government.

3 ABBREVIATIONS

GAO General Accounting Office, also the GAO Policy and Procedures Manual for Guidance of Federal Agencies

OGC Office of the General Counsel

USC United States Code

4 CROSS REFERENCE

Department procedures for handling claims against the United States under the following statutes are set forth in DR 2510-1, Claims Against the United States:

- a Federal Tort Claims Act, 28 USC 1346(b), 2401(b), 2671-2680
- b 31 USC 3723 (small claims)
- c 31 USC 3721 (claims by military personnel and civilian employees)

## 5 CLAIMS WHICH MUST BE SUBMITTED TO GAO

The following classes of claims may not be paid or denied administratively, but must be forwarded to the Claims Division of GAO for adjudication (4 GAO 5):

a **Doubtful Claims.** A claim is doubtful when in the exercise of reasonable prudence either a person having final responsibility for deciding appropriate administrative action or the person who, in accordance with applicable statutes, will be held accountable if the claim were paid and then found to be incorrect, illegal, or improper, is unable to decide with reasonable certainty the validity and correctness of the claim. (4 GAO 5.2) Claims of \$25 or less involving a doubtful question of law or fact must be sent to the USDA National Finance Center certifying officer for resolution. If the claim is paid, a copy of the certifying officer's opinion must be attached to the paid voucher. (4 GAO 5.3)

b **Claims Which Are The Subject Of A Comptroller General Advance Decision.** Advance decisions by the Comptroller General are rendered to give guidance in making payments. (4 GAO 11.1)

The Secretary or any disbursing or certifying official may request a decision from the Comptroller General on a question, involving a payment that is to be made, or a voucher presented to a certifying official for certification. (31 USC 3529)

For disbursing and certifying officers, decisions are rendered only on specific vouchers before them for action. Decisions are also rendered to disbursing and certifying officers who request reviews of settlements of their accounts and to individual claimants who request reviews or reconsideration of settlements disallowing their claims in whole or in part. (4 GAO 11.1)

Any agency which receives an advance Comptroller General decision must forward a copy of it to the Director, Office of Finance and Management.

The OGC Law Library has copies of both published and unpublished Comptroller General decisions. Unpublished decisions are available on microfiche.

- c **Claims Barred By A Statute Of Limitations When Received.**
- d **Claims Previously Denied.** Reclaims of items previously denied by an agency, unless it is determined administratively that the action taken was clearly in error and properly can be corrected by the agency. (4 GAO 5.1(3))
- e **Claims Requiring Congressional Action.** A claim that may not be adjusted by using an existing appropriation may be submitted to the Congress for introduction as a private bill for the relief of the claimant, if the Comptroller General believes there are legal or equitable reasons for Congress to consider it.

## 6 PROCEDURES FOR SUBMITTING CLAIMS TO GAO

Any claim an agency decides must be submitted to GAO under the preceding section should be sent to the Claims Division, U.S. General Accounting Office, Washington, D.C. 20548.

The claim must be received by GAO within six years after the claim accrues, unless another time limit is specified in the statute under which the claim is made, or the claim is made by a State, the District of Columbia, or a territory or possession of the United States. (31 USC 3702(b)(1))

Claims may be submitted on Forms SF-95 (Claims for Damage, Injury, or Death) or AD-832 (Employee Claim for Loss or Damage to Personal Property), or they may be in letter or other form. In any case, the claim must be in writing over the signature and address of either the claimant or the claimant's authorized agent or attorney. (31 USC 3702(b)(1) and 4 GAO 6.1)

A claim filed by an agent or attorney must be supported by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant. (4 GAO 6.2)

To support the claim and settlement action, agencies must submit to GAO the original claim signed by the claimant, an administrative report, and the original or one copy of any supporting documents. These documents will be retained by GAO. (4 GAO 8.2)

The administrative report must contain:

- a For employees, the claimant's agency and social security number. For business firms, the Employer's Identification Number, if it can be obtained.
- b A statement of the facts out of which the claim arose.
- c A statement of the doubt or other reason for forwarding the claim.
- d A recommendation for proper disposition.
- e A citation to pertinent supporting documents such as contracts or vouchers, if any.
- f A statement that the claim has not been paid and will not be paid except pursuant to certification in the name of the Comptroller General.
- g A complete symbol citation to the applicable appropriation or fund.

The agency should inform the claimant that the claim has been submitted to GAO for settlement. The notice to the claimant may not include information relating to the recommendation for disposition contained in the administrative report (4 GAO 8.2).