



U.S. Department
of Transportation
**Maritime
Administration**

MANUAL OF ORDERS

MARITIME ADMINISTRATIVE ORDER

REVOKES
MAO 420-1 dated
7/29/82 and MAO
420-3 dated 3/16/95

NO. 420-1
EFFECTIVE DATE
March 10, 2000

SUBJECT

PROCESSING AND CONTROLLING DISPUTED RECEIVABLES AND CLAIMS

Section 1. Purpose: This order prescribes the responsibilities and procedures for processing and controlling disputed receivables and claims in favor of and against the Government, and for which the Maritime Administration has responsibility. The Military Personnel and Civilian Employees Claims Act, at 31 U.S.C. 3721, authorizes the head of a federal agency to settle a claim against the Government made by an officer or employee of the agency.

Section 2. Definition of Terms:

2.01 As used in this order, the following terms mean:

- 1 Responsible official: Any official or employee of MARAD with delegated authority to:
 - (1) approve, execute, or administer a contract or other agreement (the contracting officer);
 - (2) take action for which an individual or organization must pay (such as for Freedom of Information Act requests); or
 - (3) obligate the Government to compensate an individual or an organization for damages incurred as a result of the Government's action or inaction or for damages incurred while in service to the Government.
- 2 Employee: An employee is an individual who meets the elements set forth in section 2105 of Title 5 of the U.S. Code, unless otherwise defined by the language of a particular claim statute. For the purposes of the Military Personnel and Civilian Employees Claims Act, Midshipmen of the U. S. Merchant Marine Academy, including Midshipmen assigned to merchant ships, are deemed to be employees of the Maritime Administration.
- 3 Claim against the Government: An individual's or organization's assertion of liability against MARAD which has been disputed and which the responsible official has been unable to resolve with the claimant. The term includes a lawsuit (regardless of whether any administrative consideration occurred).
- 4 Claim in favor of the Government: A disputed receivable which the responsible official has been unable to resolve with the debtor. This term includes a lawsuit (regardless of whether any administrative consideration occurred). Claims in favor of the Government that arise under Title XI of the Merchant Marine Act, 1936, as amended, shall be called "Title XI Receivables."
- 5 Disputed receivable: An amount due the Government and billed by MARAD which has been disputed by the debtor. For purposes of this order, this term does not include a receivable that is determined to be uncollectible and is removed from the accounting records pursuant to authority delegated in the Manual of Orders.

Section 3. Processing Disputed Receivables:

3.01 After determining that an amount due the Government cannot be collected through normal collection procedures, the Division of Accounting Operations, Office of Accounting, shall provide the responsible official with complete information on the amount due and why it is disputed.

3.02 The responsible official shall make a reasonable attempt to resolve the matter. If settlement is agreed to, the responsible official shall prepare a release documenting the agreement reached in the matter. If the responsible official does not have approval authority for the settlement, the release will be provided to the appropriate approving official with recommendation(s) for resolution. The release shall be executed by the claimant/debtor, as applicable, and the approving official (attachment 1). All releases are to be reviewed by the Office of Chief Counsel prior to signature by an agency official.

3.03 If settlement cannot be effected within 60 days of receipt, the approving official shall prepare Form MA-26 and forward a copy to the Division of Accounting Operations for the control record and a copy for the Office of Chief Counsel with supporting documentation. If, however, the approving official determines that additional time is required in excess of the 60-day period to make final disposition of the disputed receivable, such extension may be granted by the approving official's Associate Administrator or equivalent. Length of the extension granted and reasons therefor shall be recorded, dated, and signed by the granting official, and filed in the disputed receivable file.

3.04 In the case of a Title XI Receivable, the responsible official shall send a single letter demanding payment to the Title XI Obligor. This letter must be cleared by the Office of Chief Counsel prior to its signature and release. If payment is not received, the Office of Ship Financing shall prepare Form MA-26 and forward a copy to the Division of Accounting Operations for the control record and a copy for the Office of Chief Counsel with supporting documentation. The responsible official in coordination with Chief Counsel will make an effort to resolve the claim by negotiation.

3.05 If MARAD efforts to effect settlement fail, the matter shall be referred to the General Accounting Office or to the Department of Justice in accordance with the procedures defined in 4 CFR Chapter II - Federal Claims Collection Standards.

Section 4. Administrative Control of Claims:

4.01 Any employee of MARAD receiving a claim, or apparent claim, shall promptly forward all papers, including envelopes, to the approving official identified in attachment 1 to this order, except that claims originating in the Regions or the U.S. Merchant Marine Academy shall be forwarded to the applicable Region Director or the Superintendent, U.S. Merchant Marine Academy, for processing as prescribed in 4.03 below.

4.02 Approving officials shall:

- 1 If a claim is received from a source other than a Region Director or the Superintendent, U.S. Merchant Marine Academy, prepare and submit Form MA-26, "Claims Action Report," to the Division of Accounting Operations to establish administrative and accounting control, and notify the claimant of the control number assigned and that the claim is being processed.
- 2 For each claim received, solicit recommendations for settlement and rationale therefor from other officials, and legal advice as appropriate by transmittal of copies of the claim and the Form MA-26.
- 3 Take action on the claim and any recommendation(s), and, when final disposition is effected, close out control of the claim by preparing and submitting a new Form MA-26 to the Division of Accounting Operations.

4.03 Region Directors and the Superintendent, U.S. Merchant Marine Academy, shall:

- 1 If not the approving official, prepare and submit Form MA-26, with a recommendation for action and rationale, with any supporting documents and the claim to the appropriate approving official identified in attachment 1 to this order, and a copy of the Form MA-26 to the Chief, Division of Accounting Operations. In addition, the applicable Region Director or the Superintendent, U.S. Merchant Marine Academy, shall notify the claimant of the control number assigned and that the claim has been forwarded to MARAD Headquarters for processing.
- 2 If the approving official, comply with 4.02 above.

Section 5. Disposition of Time-Barred Claims Against the Government:

5.01 The general policy governing time-barred claims against the Government is set forth in 46 CFR Part 370.

5.02 Approving officials shall:

- 1 Review claims under their respective jurisdiction as to the application of time limitations.
- 2 Notify claimants of determinations rejecting time-barred claims, prepare Form MA-26, and send it to the Division of Accounting Operations.

5.03 Any question concerning application of time limitations shall be referred to the Office of Chief Counsel for legal advice.

Section 6. Processing Claims Referred for Litigation to the Office of Chief Counsel:

6.01 Except as set forth in 6.02 below, upon receipt of a claim referred for litigation, the Division of Litigation shall:

- 1 Make a final effort to resolve the claim by negotiation.
- 2 Process the claim, normally within 30 days after its receipt.
- 3 Take appropriate action to properly resolve the matter. Using Form MA-26, notify the Division of Accounting Operations of the referral.

6.02 Upon receipt of a Title XI Receivable referred for litigation, the Division of Ship Financing Contracts shall take appropriate action to properly refer the matter.

Section 7. Processing of Title XI Receivables:

7.01 The Chief, Division of Accounting Operations shall:

- 1 Maintain a detailed listing of all accounts receivable as support for MARAD's financial statements and debt collection efforts;
- 2 Issue reports every six months to the Maritime Administrator, Chief Counsel, Director, Office of Ship Financing, MARAD and OST Budget offices, and Department of Treasury describing the outstanding Title XI Receivables; and

- 3 Assist the Office of Chief Counsel in collection efforts for Title XI Receivables along with the Department of Justice for those Title XI Receivables referred to the Department of Justice.

7.02 For uncollected Title XI Receivables (from failure to pay guarantee fees), the Chief, Division of Accounting Operations shall refer outstanding receivables to the Director, Office of Ship Financing and the Office of Chief Counsel and provide supporting documentation with such referral.

7.03 For uncollected Title XI Receivables resulting from Title XI defaults, the Director, Office of Ship Financing shall refer outstanding Title XI defaults to the Office of Chief Counsel and provide supporting documentation with such referral.

Section 8. Reporting of Claims:

8.01 All approving officials, Region Directors, and the Superintendent, U.S. Merchant Marine Academy, shall notify the Chief, Division of Accounting Operations of the number assigned to the last claim received during the preceding:

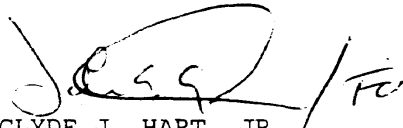
- 1 Six month period of October 1 through March 31 inclusive; due date is April 30.
- 2 Fiscal year; due date is October 31.

8.02 The Chief, Division of Accounting Operations, shall prepare for signature by the Maritime Administrator the semiannual reports required by 49 CFR 89.15(b). Report symbol MAR 3133 applies.

8.03 Except as set forth in 8.04 below, the Chief, Division of Litigation shall determine quarterly the status of each matter referred to the Department of Justice and forward to the Division of Accounting Operations any data required for administrative control, including data on initiation of litigation, settlements effected, and relevant court decisions. Submit reports by January 31, April 30, July 31, and October 31. Report symbol MAR 3131 applies.

8.04 With respect to Title XI receivables, the Chief, Division of Ship Financing Contracts shall determine quarterly the status of each matter referred to the Department of Justice and forward to the Division of Accounting Operations any data required for administrative control, including data on initiation of litigation, settlements effected, and relevant court decisions. Submit reports by January 31, April 30, July 31, and October 31. Report symbol MAR 3131 applies.

Section 9. Revision of Attachments: The Director, Office of Management and Information Services, is authorized to issue revisions of attachments 1 and 2 to this order.


CLYDE J. HART, JR.
Maritime Administrator

APPROVING OFFICIALS

Authority has been delegated to the following officials in various MARAD directives to negotiate, settle, or recommend settlement of disputes and claims, subject to specified limitations and conditions. The specific directives are:

<u>Type of Claim/ Disputed Receivable</u>	<u>Approving Official</u>	<u>MARAD Directive</u>
o Acquisition contract disputes up to and including final decision by contracting officer	Contracting Officer If unknown, submit to Director, Office of Acquisition	MARAD Acquisition Guide
o Lump Sum Repair (LUMPSUMREP) contracts	Contracting Officer (If unknown, submit to Director, Office of Acquisition)	MAO 640-1
o Claims arising under Federal Employees' Compensation Act (Disability, death benefits, burial expenses, etc.)	Workers' Compensation Program Assistant [If unknown, submit to Office of Management and Information Services, Region Director, or Superintendent, U.S. Merchant Marine Academy (as applicable)]	MAO 780-810
o Waiver of claims for over-payment of employee pay and allowances	Associate Administrator for Administration (Submit as prescribed in MAO 750-558)	MAO 750-558
o Claims in favor of and against the Government referred for litigation	Chief Counsel Chief, Division of Litigation	MAO 22-1
o Claims of the United States under the Federal Claims Collection Act of 1966	Associate Administrator for Administration Director, Office of Accounting	MAO 30-1 MAO 33-1
o Interagency fund transfers	Director, Office of Budget	MAO 410-2
o Just compensation claims and admiralty claims	Chief Counsel Chief, Division of Litigation	MAO 22-1
o Loss or damage claims arising from freight shipments and real estate claims	Associate Administrator for Administration Director, Office of Management and Information Services	MAO 30-1 MAO 31-1
o Marine and war risk insurance claims	Associate Administrator for Shipping Analysis and Cargo Preference Director, Office of Insurance and Shipping Analysis	MAO 50-1 MAO 57-1

<u>Type of Claim/ Disputed Receivable</u>	<u>Approving Official</u>	<u>MARAD Directive</u>
o Personal property claims of employees incident to services (See DOT Order 2700.9)	Director, Office of Management and Information Services	MAO 31-1
o Seamen's claims of crew members of MARAD-owned ships not covered by usual forms of marine insurance	Maritime Administrator Associate Administrator for Shipping Analysis and Cargo Preference Director, Office of Insurance and Shipping Analysis	MAO 10-1 MAO 50-1 MAO 57-1
o Ship construction-type contract claims	Associate Administrator for Administration Director, Office of Acquisition	MAO 30-1 MAO 38-1
o Subsidy Claims: Construction-differential (CDS) (Subsidy payments)	Director, Office of Shipbuilding Technology	MAO 510-2
(Contract administration)	Associate Administrator for Shipbuilding Director, Office of Shipbuilding Technology	MAO 70-1 MAO 72-1
Operating-differential (ODS) (Except M&R)	Director, Office of Financial and Rate Approvals	MAO 560-1
(M&R)	Director, Office of Ship Operations	MAO 560-1
o Title XI Receivables	Director, Office of Ship Financing	MAO 77-1
o Tort Claims	Chief Counsel	46 CFR Part 204

Instructions for Completing Form MA-26,
"Claims Action Report"

- | <u>Block No.</u> | <u>Enter</u> |
|------------------|---|
| 1 | Reserved for Accounting Office use. |
| 2 | Place "X" in applicable box. |
| 3 | <p>Initiator of Form MA-26 enters the three-part control number. For example, 410-99-005.</p> <p>Organization - 410 is the first three digits of the initiator's organization code (in this example, Western Region Director). These codes are published in appendix III to MAO 400-5.</p> <p>Fiscal Year - 99 is the last two digits of the fiscal year in which the claim was received (in this example, FY 1999).</p> <p>Serial Number - 005 is a serial number assigned consecutively to each claim in a fiscal year, beginning with 001 for the first claim received (in this example, 005 denotes the fifth claim received by the Western Region Director in FY 1999).</p> <p>If Form MA-26 is prepared to report an action other than type 4a (New Claim), enter the control number that was originally assigned when the claim was first received and processed by MARAD.</p> |
| 4 | <p>Place "X" in appropriate box to identify the type of action reported.</p> <ul style="list-style-type: none"> a. New Claim is a claim not previously received by MARAD. b. Revision of Claim is a change from a previous report (Form MA-26) on the same claim. c. Withdrawal indicates the claimant has withdrawn the claim. d. Transfer reports the transfer of responsibility for the claim to another official or organization, e.g., Department of Justice, General Accounting Office, etc. e. Denial reports the final MARAD decision to deny the claim. |

<u>Block No.</u>	<u>Enter</u>
	f. Settlement/Payment reports the final settlement or decision to pay the claim, in whole or in part.
	g. Uncollectible/Closed reports the determination by MARAD, Department of Justice, Comptroller General, court judgment, or other authority that a claim is uncollectible; or that a claim file is closed.
	h. This type of action code is used to report an action not described by codes "a" - "g." The specific action reported should be entered following the code "h" in block 4.
5	Enter the name and address of the individual or organization filing the claim or owing the Government.
6	Self-explanatory.
7	Enter the date the claim was first received by MARAD.
8	Reserved for Accounting Office use.
9	a. Original Amount - enter the amount of the claim as originally received from the claimant or the amount initially determined to be owed to the Government, as applicable.
	b. Changes - if the report is a change to the original amount claimed, enter only the amount of the change in the appropriate block (increase or decrease). If not a change, leave blank.
	c. Current Amount - enter the current amount of the claim. This should be the algebraic sum of the amounts in blocks 9a and 9b.
10	a. Original Amount - enter the approving official's estimate of the amount at which the claim can be expected to be settled.
	b. Changes - if the report is a change to the original estimated settlement value, enter only the amount of the change in the appropriate block (increase or decrease). If not a change, leave blank.
	c. Current Amount - enter the current settlement estimate. This should be the algebraic sum of the amounts in blocks 10a and 10b.

<u>Block No.</u>	<u>Enter</u>
11	Self-explanatory. If additional space is needed, attach sheets of bond paper, as necessary, including on each sheet the claim control number (from block 3), claimant/debtor name, and date the sheet is prepared.
12	Type name and title of the individual preparing the Form MA-26. The preparer signs and dates the block. If the preparer is also the approving official, leave this block blank.
13	Type name and title of the individual delegated authority to take the final MARAD action on the claim. The approving official signs and dates this block.