

Pt. 6103**48 CFR Ch. 61 (10-1-08 Edition)**

- (i) The determination of the Deputy Administrator that is the subject of the dispute;
- (ii) The reinsurance agreement (with amendments or modifications) at issue in the dispute;
- (iii) Pertinent correspondence between the parties that is relevant to the dispute, including prior administrative determinations and related submissions;
- (iv) Documents and other tangible materials on which the Deputy Administrator relied in making the underlying determination; and
- (v) Any additional material pertinent to the authority of the Board or the resolution of the dispute.
- (3) The following subsection is added to 6101.4 (Rule 4): Media on which appeal file is to be submitted. All appeal file submissions, including the index, shall be submitted in two forms: paper and in a text or .pdf format submitted on a compact disk. Each compact disk shall be labeled with the name and docket number of the case. The judge may delay the submission of the compact disk copy of the appeal file until the close of the evidentiary record.
- (d) *Rule 5.* In 6101.5(a)(2) (Rule 5(a)(2)), the references to "contracting officer" are references to "Deputy Administrator."
- (e) *Rule 6.* In 6101.6(d) (Rule 6(d)) does not apply to FCIC cases.
- (f) *Rule 12.* In 6101.12(a) (Rule 12(a)), the references to "contracting officer" are references to "Deputy Administrator."
- (g) *Rule 15.* In 6101.15(d) (Rule 15(d)), the final sentence does not apply to FCIC cases.
- (h) *Rule 16.* In 6101.16(b) through (h) (Rule 16(b) through (h)) do not apply to FCIC cases. Instead, upon the written request of any party filed with the Office of the Clerk of the Board, or upon the initiative of a judge, a judge is authorized by delegation from the Secretary of Agriculture to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. §304.
- (i) *Rule 21.* (1) In 6101.21(f) (Rule 21(f)), the final sentence does not apply to FCIC cases.
- (2) In 6101.21(g) (Rule 21(g)), the final sentence does not apply to FCIC cases.
- (j) *Rule 25.* In 6101.25(a) (Rule 25(a)), the initial phrase, "Except as provided in 6101.52 (Rule 52) (small claims procedure)," does not apply to FCIC cases.
- (k) *Rule 32.* In 6101.32(a) through (c) (Rule 32(a) through (c)) are replaced with the following for FCIC cases:
- (1) *Finality of Board decision.* A decision of the Board is a final administrative decision.
- (2) *Appeal permitted.* An appellant may file suit in the appropriate United States District Court to challenge the Board's decision. An appellant which files such a suit shall provide the Board with a copy of the complaint.
- (l) *Rule 52.* 6101.52 (Rule 52) does not apply to FCIC cases.
- (m) *Rule 53.* 6101.53 (Rule 53) does not apply to FCIC cases.

PART 6103—TRANSPORTATION RATE CASES

Sec.

- 6103.301 Scope [Rule 301].
6103.302 Filing claims [Rule 302].
6103.303 Responses to claims [Rule 303].
6103.304 Reply to the audit division and agency responses [Rule 304].
6103.305 Proceedings [Rule 305].
6103.306 Decisions [Rule 306].
6103.307 Reconsideration of Board decision [Rule 307].
6103.308 Payment of successful claims [Rule 308].

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

SOURCE: 72 FR 36816, July 5, 2007, unless otherwise noted.\

6103.301 Scope [Rule 301].

(a) *Authority.* 31 U.S.C. 3726(i)(1) provides that a carrier or freight forwarder may request the Administrator of General Services to review an action taken by the Audit Division of the General Services Administration's Office of Transportation and Property Management (the Audit Division). The Administrator has redelegated those functions to the Civilian 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.

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3726(i)(1). The Board will issue the final agency decision on a claim based on the information submitted by the claimant, the Audit Division, 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.

6103.302 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 Audit Division 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. The Board's mailing address is: 1800 F Street, NW, Washington, DC 20405. The Board is located at: 1800 M Street, NW, 6th Floor, Washington, DC 20036. The Clerk's telephone number is: (202) 606-8800. The Clerk's facsimile machine number is: (202) 606-0019. 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 the Audit Division, 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 the Audit Division 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 the Audit Division and the agency.

6103.303 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), the Audit Division 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 the Audit Division or the agency, as appropriate. To expedite proceedings, if either the Audit Division 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 the Audit Division or the agency, as appropriate, that it does not intend to file a response.

6103.304 Reply to the audit division and agency responses [Rule 304].

A claimant may file with the Board and serve on the Audit Division and the agency a reply to the Audit Division 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, the Audit Division, and the agency.

6103.305**6103.305 Proceedings [Rule 305].**

(a) *Requests for additional time.* The claimant, the Audit Division, 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, the Audit Division, 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, the Audit Division, or the agency may request an opportunity to make additional submissions; however, no such submission may be made unless authorized by the judge.

6103.306 Decisions [Rule 306].

The judge will issue a written decision based upon the record, which includes submissions by the claimant, the Audit Division, and the agency, and information provided during conferences. The claimant, the Audit Division, 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.cbca.gsa.gov.

6103.307 Reconsideration of Board decision [Rule 307].

A request for reconsideration may be made by the claimant, the Audit Division, 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.

48 CFR Ch. 61 (10-1-08 Edition)**6103.308 Payment of successful claims [Rule 308].**

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

PART 6104—TRAVEL AND RELOCATION EXPENSES CASES

Sec.

- 6104.401 Scope [Rule 401].
- 6104.402 Filing claims [Rule 402].
- 6104.403 Response to claim [Rule 403].
- 6104.404 Reply to agency response [Rule 404].
- 6104.405 Proceedings [Rule 405].
- 6104.406 Decisions [Rule 406].
- 6104.407 Reconsideration of Board decision [Rule 407].
- 6104.408 Payment of successful claims [Rule 408].

AUTHORITY: Secs. 202(n), 204, Pub. L. 104-316, 110 Stat. 3826; Sec. 211, Pub. L. 104-53, 109 Stat. 535; 31 U.S.C. 3702; 41 U.S.C. 601-613.

SOURCE: 72 FR 36817, July 5, 2007, otherwise noted.

6104.401 Scope [Rule 401].

(a) *Authority.* These procedures govern the Board's resolution of claims by Federal civilian employees for certain travel or relocation expenses. 31 U.S.C. 3702 vests the authority to settle these claims in the Administrator of General Services, who has redelegated that function to the Civilian 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