

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–41 and 102–118

[FPMR Amendment G–]

RIN 3090–AH15

Transportation Payment and Audit

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on transportation payment and audit into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Comments must be received by March 23, 2000 to be considered in development of the final rule.

ADDRESSES: Send written comments to Ms. Sharon Kiser, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405. E-mail comments to RIN.3090–AH15@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, Program Analyst, Transportation Management Policy Division, Office of Governmentwide Policy, General Services Administration, at 202–208–7638, or E-mail at ed.davis@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In response to President Clinton's mandate to Federal agencies to make communication with the public more understandable, GSA proposes to revise and clarify the transportation management policies by:

- (1) Writing them in plain language and making substantive changes; and
- (2) Allowing the use of commercial bills of lading and electronic commerce.

This rewrite incorporates Public Law 105–264, section 3, which amended 31 U.S.C. 3322, 31 U.S.C. 3528, and 31 U.S.C. 3726. The major change required is the mandatory use of prepayment audits for transportation billings.

The Federal Management Regulation (FMR) is in the question and answer format. Question and answer format is an effective way to engage the reader and to break the information into

manageable pieces. The FMR asks questions in the first person, as the user would. It then answers the questions in the second and third person. The FMR addresses the agency in the singular.

B. Proposed Substantive Changes

The General Services Administration proposes to clarify existing transportation payment and audit requirements and make substantive changes.

We implement the mandatory use of prepayment audits, as required by Public Law 105–264, section 3, which amended 31 U.S.C. 3322, 31 U.S.C. 3528, and 31 U.S.C. 3726. Under a prepayment audit, the agency will keep more of its transportation dollars, by verifying transportation billings to eliminate potential overpayments.

We propose to encourage agencies to expand the use of charge cards, commercial bills of lading, and electronic payment methods in place of the Government forms (Government Bill Of Lading and General Transportation Request) used currently. The use of electronic bills of lading and existing commercial forms are the preferred methods to decrease the need for paperwork, retention of duplicate copies, and to lessen stockpiles of archived paper files and storage space.

We propose that the appeals process for a claim should begin within an agency and that the first level of appeal be handled at an appropriate level within the agency. In exchange for keeping funds through the use of prepayment audits, agencies will have responsibilities related to the setup and function of their prepayment audit programs.

FMR part 118 affects any department or establishment of the Federal Government defined by 5 U.S.C. 305, whose payment for transportation services are subject to the transportation audit provisions of section 322 of the Transportation Act of 1940, as amended (31 U.S.C. 3726). Also included are Federal entities such as mixed ownership and wholly owned corporations, if they request coverage under this part.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

The Associate Administrator for Governmentwide Policy hereby certifies that this proposed 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.*, because the rule only applies to internal agency management and will not have a significant affect on the public. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments invited from small entities concerning the affected FMR subparts will be considered in accordance with 5 U.S.C. 601. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.*

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this 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 the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–41 and 102–118

Accounting, Claims, Government property management, Surplus Government property, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–41 is revised to read as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Authority: 31 U.S.C. 3726; and 40 U.S.C. 486(c).

§ 101–41.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For transportation payment and audit policy, see FMR part 118 (41 CFR part 102–118).

CHAPTER 102—[AMENDED]

2. Part 102–118 is added to subchapter D to read as follows:

PART 102-118—TRANSPORTATION PAYMENT AND AUDIT

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Authority: 31 U.S.C. 3726; and 40 U.S.C. 481, *et seq.*

Subpart A—General**Introduction****§ 102–118.5 What is the purpose of this part?**

The purpose of this part is to interpret statutes and other policies that assure that payment and payment mechanisms for agency transportation services are uniform and appropriate. This part communicates the policies clearly to agencies and transportation service providers (TSPs). (See § 102–118.35 for the definition of TSP.)

§ 102–118.10 What is a transportation audit?

A transportation audit is a thorough review and validation of transportation related bills. The audit must examine the validity, propriety, and conformity of the charges with tariffs, quotations, agreements, or tenders. Each agency must ensure that its internal procedures prevent duplicate payments, only allow payment for authorized services, and the TSP's bill is complete with required documentation.

§ 102–118.15 What is a transportation payment?

A transportation payment is a payment made by an agency to a TSP for the movement of goods or people and/or transportation related services.

§ 102–118.20 Who is subject to this part?

All agencies and TSPs defined in § 102–118.35 are subject to this part. Your agency is required to incorporate this part into its internal regulations.

§ 102–118.25 Does GSA require my agency to submit its transportation policies for approval?

GSA does not require your agency to submit its transportation policies for approval. However, GSA may from time to time request to examine your agency's transportation policies to verify the correct performance of the prepayment audit of your agency's transportation bills.

§ 102–118.30 Are Government corporations bound by this part?

No, Government corporations are not bound by this part. However, they may choose to use it if they wish.

Definitions**§ 102–118.35 What definitions apply to this part?**

The following definitions apply to this part:

Agency means any department or establishment of the Federal Government defined by 5 U.S.C. 305, whose payments for transportation services are subject to the transportation audit provisions of section 322 of the Transportation Act of 1940, as amended (31 U.S.C. 3726). Also included are Federal entities such as mixed ownership and wholly owned corporations, if they request coverage by this part, and GSA permits such coverage.

Agency claim means any demand by an agency upon a TSP for the payment of overcharges, ordinary debts, fines, penalties, administrative fees, special charges, interest or unpaid original bills.

Bill of lading, sometimes referred to as a commercial bill of lading, is the document used as a receipt of goods, and documentary evidence of title. It is also a contract of carriage except when movement is under any authority other than 49 U.S.C. 10721 and 49 U.S.C. 13712.

Document reference number means the unique number on a bill of lading, Government Bill of Lading, Government Transportation Request, or ticket, used to track the movement of shipments and individuals.

EDI signature means a discrete authentication code intended to serve in

place of a paper signature and to bind parties to the terms and conditions of a contract.

Electronic commerce means electronic techniques for performing business transactions (ordering and paying for goods and services), including electronic mail or messaging, Internet technology, electronic bulletin boards, charge cards, electronic funds transfers, and electronic data interchange.

Electronic data interchange means electronic techniques for carrying out transportation transactions using electronic transmissions of the information instead of a paper document.

Electronic funds transfer means any transfer of funds, other than transactions initiated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearinghouse transfers, Fed Wire transfers, transfers made at automatic teller machines and point of sale terminals. This includes charge card transactions (31 U.S.C. 332(i)).

Government Bill of Lading (GBL) means Standard Forms 1103 and 1203, the transportation documents used as a receipt of goods, evidence of title, and generally a contract of carriage.

Government contractor-issued charge card means an individually billed travel card, which the individual is required to pay, or a centrally billed account for paying travel expenses, which the agency is required to pay.

Government transportation request means Standard Form 1169, the Government document used to buy transportation services. The document normally obligates the Government to pay for the transportation services provided.

Offset means agency use of money owed by the agency to a transportation service provider (TSP) to cover a previous debt incurred to the agency by the TSP.

Ordinary debt means administratively determined transportation debt other than an overcharge. Ordinary debts include, but are not limited to, payments for transportation services ordered and not provided, duplicate payments, unused tickets, and those involving loss and/or damage to property transported by a TSP.

Overcharges means those charges for transportation services more than those applicable under contract for carriage. Charges more than those applicable under rates, fares and charges

established pursuant to section 13712 and 10721 of the Revised Interstate Commerce Act, as amended (49 U.S.C. 13712 and 10721), or other equivalent contract, arrangement or exemption from regulation.

Postpayment audit means an audit of transportation billing documents after payment to decide their validity, propriety, and conformity with tariffs, quotations, agreements, or tenders. This process may also include subsequent adjustments and collections actions taken against a TSP by the Government.

Prepayment audit means an audit of transportation billing documents before payment to determine their validity, propriety, and conformity with tariffs, quotations, agreements, or tenders.

Privately Owned Personal Property Government Bill of Lading, Standard Form 1203, means the agency transportation document used as a receipt of goods, evidence of title, and generally a contract of carriage. It is only available for the transportation of household goods. Use of this form is mandatory for Department of Defense, but optional for other agencies.

Rate authority means the document that establishes the legal charges for a transportation shipment. Charges included in a rate authority might be those for transportation services allowed under rates, fares, and charges contained in tariffs, tenders, and other equivalent arrangements.

Released value is stated in dollars and is less than that of the cargo. The amount stated would be the maximum amount that could be recovered by the shipper in the event of loss or damage. In return, the transportation service provider should offer a rate lower than other rates for shipping cargo at full value. The statement of released value may be shown on any applicable tariff, tender, or document covering the shipment.

Reparation means the payment involving a TSP to or from an agency of an improper transportation billing. Improper routing, overcharges, or duplicate payments may cause such improper billing. This is different from payments to settle a claim for loss and damage to items shipped under those rates.

Standard carrier alpha code means an unique four-letter code assigned to each TSP by the National Motor Freight Traffic Association, Inc.

Statement of difference means a statement issued by an agency or its designated audit contractor during a prepayment audit when they determine that a TSP has billed the agency for more than the proper amount for the services. This statement tells the TSP on

the invoice, the amount allowed and the basis for the proper charges. The statement also cites the applicable rate references and other data relied on for support. The agency issues a separate statement of difference for each transportation transaction.

Statement of difference rebuttal means a document used by the agency to respond to a TSP's claim about an improper reduction made against the TSP's original bill by the paying agency.

Supplemental bill means a bill for services that the TSP submits to the agency for additional payment after reimbursement for the original bill. The need to submit a supplemental bill may occur due to an incorrect first bill or due to accessorial charges such as storage in transit.

Taxpayer identification number (TIN) means the number required by the Internal Revenue Service to be used by the TSP in reporting income tax or other returns. For a TSP, the TIN is an employer identification number.

Transportation document (TD) means any executed agreement for transportation service, such as a bill of lading, a Government Bill of Lading, a Government Transportation Request, or transportation ticket.

Transportation service means service involving the physical movement (from one location to another) of products, people, household goods, and any other

objects by a TSP for an agency. Examples of this are storage, crating, or connecting appliances.

Transportation service provider (TSP) means any party, person, agent, or carrier that undertakes by contract or rate agreement to provide transportation and related services to an agency.

Transportation service provider claim means any demand by the TSP for amounts not included in the original bill that they believe an agency owes them. This includes amounts deducted or offset by an agency; amounts previously refunded by the TSP, which they now believe they are owed; and any subsequent bills resulting from a transaction that was pre- or postpayment audited by the GSA Audit Division.

Virtual GBL (VGBL) means the use of a unique GBL number on a commercial document, which binds the TSP to the terms and conditions of a GBL.

Note to § 102-118.35: 49 U.S.C. 13102, *et seq.*, defines additional transportation terms not listed in this section.

Subpart B—Ordering and Paying for Transportation and Transportation Services

§ 102-118.40 How does my agency order transportation and transportation services?

Your agency orders:

(a) Transportation of freight and household goods and related transportation services (e.g., packing, storage) with a charge card, bill of lading, purchase order (or electronic equivalent), or for domestic shipments until September 30, 2001, a Government Bill of Lading (GBL). GBLs will continue to be available, if needed, for international shipments.

(b) Transportation of people and the purchase of tickets with a Government issued charge card (or centrally billed travel account citation), Government issued individual travel charge card, personal charge card, or in prescribed situations, a Government Transportation Request. See the "U.S. Government Passenger Transportation" handbook, obtainable from: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102-118.45 How does a transportation service provider (TSP) bill my agency for transportation and transportation services?

The manner in which your agency orders transportation and transportation services determines the manner in which a TSP bills for service. This is shown in the following table:

TRANSPORTATION SERVICE PROVIDER BILLING

(a) Ordering method	(b) Billing method
(1) Government issued agency charge card, (2) Centrally billed travel account citation (3) Purchase order, (4) Bill of lading, (5) Government Bill of Lading, (6) Government Transportation Request. (7) Contractor issued individual travel charge card, (8) Personal charge card, (9) Personal cash.	(1) Bill from charge card company (may be electronic). (2) Bill from TSP (may be electronic). (3) Voucher from employee (may be electronic).

§ 102-118.50 How does my agency pay for transportation services?

Your agency may pay for transportation services in three ways:

(a) **Electronic funds transfer (EFT)** (31 U.S.C. 3332, *et seq.*). This method requires your agency to make all payments by electronic means unless your agency receives a waiver from the Department of the Treasury.

(b) **Check.** For those situations where EFT is not possible and the Department of the Treasury has issued a waiver, your agency may make payments by check.

(c) **Cash.** In very unusual circumstances and as a last option, your agency payments may be made in cash.

§ 102-118.55 What administrative procedures must my agency establish for payment of freight, household goods, or other transportation services?

Your agency must establish administrative procedures clearly defining program controls including, at a minimum, the following criteria:

(a) The negotiated price is fair and reasonable;
(b) A document of agreement signifying acceptance of the arrangements with terms and conditions is filed with the participating agency by the TSP;

(c) The terms and conditions must be included in all transportation agreements and referenced on all transportation documents (TDs);

(d) Billing must be paid to the origin TSP and may not be waived;

(e) All fees paid must be accounted for in the aggregate delivery costs;

(f) All payments are subject to applicable statutory limitations;

(g) Procedures are established to prevent and detect duplicate payments, properly account for expenditures and discrepancy notices;

(h) All charge card transactions are verified with any indebtedness lists; and

(i) Procedures are established to process any unused tickets.

§ 102-118.60 Can my agency use electronic billing for payment of transportation services?

Yes, when mutually agreeable to the agency and the GSA Audit Division, your agency is encouraged to use electronic commerce for the

procurement and billing of transportation services.

§ 102–118.65 To what extent must my agency use electronic commerce?

Your agency must use electronic commerce (i.e., electronic methods for ordering and paying for transportation and transportation services) to the maximum extent possible.

§ 102–118.70 Must my agency make all payments via electronic funds transfer?

Yes, under 31 U.S.C. 3332, *et seq.*, your agency must make all payments for goods and services via EFT (this includes charge cards).

§ 102–118.75 What if my agency or the TSP does not have an account with a financial institution or approved payment agent?

Under 31 U.S.C. 3332, *et seq.*, your agency must make all Federal payments via EFT unless your agency receives a waiver from the Department of the Treasury. To obtain a waiver, your agency must contact: The Commissioner, Financial Management Service, Department of the Treasury, 401 Fourteenth Street, SW, Washington, DC 20227, <http://www.fms.treas.gov/>.

§ 102–118.80 Who is responsible for keeping my agency's electronic commerce transportation billing records?

The GSA Audit Division keeps a central repository of electronic transportation billing records for legal and auditing purposes. Your agency must forward all relevant electronic transportation billing documents to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.85 Can my agency use a charge card to pay for transportation services?

Yes, your agency should use a charge card for an appropriate purchase of transportation services.

§ 102–118.90 If my agency orders transportation and/or transportation services with a contractor issued charge card or charge account citation, is this subject to prepayment audit?

Generally, no transportation or transportation services ordered with a Government contractor issued charge card or charge account citation can be prepayment audited because the bank or charge card contractor pays the TSP directly. However, if your agency contracts with the charge card or charge account provider to provide for a prepayment audit, then, as long as your agency is not liable for paying the bank for improper charges (as determined by the prepayment audit verification

process), a prepayment audit can be used. As with all prepayment audit programs, this must be approved by the GSA Audit Division prior to implementation. In the event of no prepayment audit, your agency must submit the transportation bills to the GSA Audit Division for a postpayment audit.

§ 102–118.95 What standard forms can my agency use to pay transportation bills?

Your agency must use commercial payment practices to the maximum extent possible; however, when viewed necessary by your agency, the standard forms that your agency may use to pay transportation bills are:

(a) Standard Form (SF) 1113, Public Voucher for Transportation Charges, and SF 1113–A, Memorandum Copy;

(b) SF 1103, Government Bill of Lading (used for movement of things, both privately owned and Government property for official uses);

(c) SF 1169, Government Transportation Request (used to move people); and

(d) SF 1203, Personal Property Government Bill of Lading, and SF 1203A, Memorandum Copy (used by the Department of Defense to move private property for official transfers).

Note to § 102–118.95: By September 30, 2001, your agency may no longer use the SF 1103 and SF 1203 for domestic shipments. After September 30, 2000, your agency should minimize the use of SF 1169.

§ 102–118.100 What must my agency ensure is on each SF 1113?

Your agency must ensure during its prepayment audit of a TSP bill that the taxpayer identification number (TIN), and standard carrier alpha code is entered on each SF 1113 filed. An SF 1113 must accompany all TSP billings.

§ 102–118.105 Where can I find the rules governing the use of a Government Bill of Lading?

The “How to Prepare Bills of Lading” handbook contains information on how to prepare this form. To get a copy of this handbook, you may write to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.110 Where can I find the rules governing the use of a Government Transportation Request?

The “U.S. Government Passenger Transportation” handbook contains information on how to prepare this form. To get a copy of this handbook, you may write to: General Services Administration, Federal Supply Service,

Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.115 Must my agency use a GBL?

No, your agency is not required to use a GBL and must use commercial payment practices to the maximum extent possible. Effective September 30, 2001, your agency must phase out the use of the SFs 1103 and 1203 for domestic shipments. After this date, your agency may use the GBL solely for international shipments.

§ 102–118.120 Must my agency use a GTR?

No, your agency is not required to use a GTR. Your agency must adopt commercial practices and eliminate GTR use to the maximum extent possible.

§ 102–118.125 What if my agency uses a TD other than a GBL?

If your agency uses any other TD for shipping under its account, the requisite and the named safeguards must be in place (i.e., terms and conditions of the GBL Handbook, appropriate numbering, etc.).

§ 102–118.130 Must my agency use a GBL for express, courier, or small package shipments?

No, however, in using commercial forms all shipments must be subject to the terms and conditions set forth for the use in the bill of lading. Any other applicable contracts or agreements between the TSP and an agency involving buying transportation services for Government traffic remain binding. This purchase does not require an SF 1113. When you are using GSA's schedule for small package express delivery, the terms and conditions of that contract are binding.

§ 102–118.135 How does my agency handle supplemental billings after payment of the original bill?

Your agency must process, review, and verify supplemental billings using the same procedures as on an original billing. If the TSP disputes the findings, your agency must attempt to resolve the disputed amount.

§ 102–118.140 Who is liable for overpayment made on a transportation bill?

Agency transportation certifying and disbursing officers are liable for overpayments made on a transportation bill unless GSA grants a waiver to the prepayment audit requirement and performs a postpayment audit (31 U.S.C. 3528 and 31 U.S.C. 3322).

§ 102–118.145 What must my agency do if the TSP makes an error on a bill?

Your agency must advise the TSP via statement of difference of any adjustment either electronically or in writing within 7 days of receipt of the bill, as required by the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). This notice must refer to the TSP's taxpayer identification number, standard carrier alpha code, bill number and document reference number, agency name, amount requested, amount paid, payment voucher number, complete tender or tariff authority, the applicable rate authority and the complete fiscal authority including the appropriation.

§ 102–118.150 Will GSA continue to maintain a centralized numbering system for transportation documents (TDs)?

Yes, GSA will maintain a numbering system for GBLs and GTRs. For all other TDs, each agency must create a unique numbering system to account for and prevent duplicate numbers. The Office of Governmentwide Policy (MT) must approve this system. Write to: General Services Administration, Office of Governmentwide Policy (MT), 1800 F Street, NW, Washington, DC 20405.

Subpart C—Use of Government Billing Documents Terms and Conditions Governing Acceptance and Use of a Government Bill of Lading (GBL) or Government Transportation Request (GTR) (Until Form Retirement)**§ 102–118.155 Must my agency prepare for the GBL retirement?**

Yes, your agency must prepare for the GBL retirement. Effective September 30, 2001, your agency must phase out the use of the SF 1103 and SF 1203, Privately Owned Personal Property Government Bills of Lading (PPGBLs), for domestic shipments. After this date, your agency may use the GBL or PPGBL solely for international shipments.

§ 102–118.160 Must my agency prepare for the GTR retirement?

Yes. Your agency must use the GTR only in situations that do not lend themselves to the use of commercial payment methods.

§ 102–118.165 Where are the mandatory terms and conditions governing the use of a GBL?

The mandatory terms and conditions governing the use of a GBL are contained in this part, on the back of SF 1103 and SF 1203, and the "How to Prepare Bills of Lading" handbook.

§ 102–118.170 Where are the mandatory terms and conditions governing the use of a GTR?

The mandatory terms and conditions governing the use of a GTR are contained in this part, on the back of SF 1169, and the "U.S. Passenger Transportation" handbook.

§ 102–118.175 When buying transportation on a GBL, must my agency reference the applicable contract or tender?

Yes, your agency must reference the applicable contract or tender when buying transportation on a GBL. However, the referenced information on a GBL does not limit an audit of charges.

§ 102–118.180 When buying transportation on a GTR, must my agency reference the applicable contract?

Yes, when buying transportation, your agency must reference the applicable contract on a GTR.

§ 102–118.185 What documents must a transportation service provider (TSP) send to receive payment for a transportation billing?

For shipments bought on a TD, the TSP must submit a properly certified GBL or PPGBL. The TSP must attach a properly certified GBL or PPGBL to a SF 1113, Public Voucher for Transportation Charges. The TSP must submit this package and all supporting documents to the paying office, marked in Block 13 of the GBL, or Block 21 of the PPGBL.

§ 102–118.190 Can a TSP demand advance payment for the transportation charges submitted on a GBL?

No, a TSP cannot demand advance payment for transportation charges submitted on a GBL.

§ 102–118.195 May my agency pay an agent functioning as a warehouseman for a principal TSP?

No, your agency may only pay the TSP with whom it has a contract. On a GBL shipment, Block 1 of the SF 1103 or Block 1 of the SF 1203, lists the TSP with whom the Government has a contract.

§ 102–118.200 May my agency use bills of lading other than the GBL for a transportation shipment?

Yes, as long as the same terms and conditions stated on a GBL apply. The TSP must agree in writing to the Bill of Lading Handbook terms and conditions. Only an agency can convert a GBL to a commercial bill of lading or vice versa.

§ 102–118.205 May my agency pay a TSP any added monies to pay for the preparation and use of the GBL or GTR?

No. Your agency may not pay a TSP a higher rate than comparable under

commercial procedures for transportation bought on a GBL or GTR.

§ 102–118.210 If a transportation debt is owed because of loss or damage to property, does my agency report it to GSA?

No, if your agency has administratively determined that a debt is owed, resulting from loss or damage, follow your agency regulations.

§ 102–118.215 What constitutes final receipt of shipment?

Final receipt of the shipment occurs when the consignee or TSP acting on behalf of the consignee fully signs and dates the delivering TSP's documents and the consignee's copy of the same document indicating delivery and/or explaining any delay, loss, damage, or shrinkage of shipment.

§ 102–118.220 What if my agency creates or eliminates a field office approved to prepare transportation documents?

Your agency must tell the GSA Audit Division whenever it approves a new or existing agency field office to prepare transportation documents or when an agency field office is no longer authorized to do so. This notice must show the name, field office location of the bureau or office, and the date on which your agency granted or canceled its authority to schedule payments for transportation service.

Agency Responsibilities When Using Government Bills of Lading (GBLs) or Government Transportation Requests (GTRs)**§ 102–118.225 Must my agency keep physical control and accountability of the GBL and GTR forms or GBL and GTR numbers?**

Yes, your agency is responsible for the physical control and accountability of the GBL and GTR stock and must have procedures in place and available for inspection by GSA. Your agency must consider them to be the same as money.

§ 102–118.230 How does my agency get GBL and GTR forms?

Your agency can get GBL and GTR forms, in either blank or prenumbered formats, from: General Services Administration, Federal Supply Service, General Products Commodity Center (7FXM–WS), 819 Taylor Street, Room 6A24, Fort Worth, TX 76102.

§ 102–118.235 How does my agency get an assigned set of GBL or GTR numbers?

If your agency does not use preprinted GBL and GTR forms, you may get an assigned set of numbers from: General Services Administration, Federal Supply Service, General Products Commodity Center (7FXM–WS), 819

Taylor Street, Room 6A24, Fort Worth, TX 76102.

§ 102–118.240 Who is accountable for the issuance and use of GBL and GTR forms?

Agencies and agency employees are responsible for the issuance and use of GBL and GTR forms and they are accountable for their disposition.

§ 102–118.245 Are GBL and GTR forms sequential?

Yes, GBL and GTR forms generally are serially numbered when printed. No other numbering of the forms, including additions or changes to the prefixes or additions of suffixes, is permitted.

Quotations, Tenders or Contracts

§ 102–118.250 Must my agency send a quotation, tender, or contract with a TSP to GSA?

(a) Yes, your agency must send two copies of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs including those authorized by 49 U.S.C. 13712 and 10721, upon execution to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

(b) Exceptions are when this information is in an electronic format and your agency and the GSA Audit Division made a previous arrangement to transfer the information electronically.

Subpart D—Prepayment Audits of Transportation Services Agency Requirements for Prepayment Audits

§ 102–118.255 What is a prepayment audit?

A prepayment audit is a review of a transportation service provider (TSP) bill that occurs prior to your agency making payment to a TSP. This review compares the charges on the bill against the charge permitted under the contract, rate tender, or other agreement under which the TSP provided the transportation and/or transportation related services.

§ 102–118.260 Must my agency establish a prepayment audit program?

(a) Yes, your agency must send a preliminary copy of your prepayment audit program to: General Services Administration, Office of Transportation and Personal Property (MT), 1800 F Street, NW, Washington, DC 20405, <http://policyworks.gov/org/main/MT>.

(b) The final plan must be approved and in place by April 20, 2000.

§ 102–118.265 What must my agency consider when designing and implementing a prepayment audit program?

The method of ordering transportation and transportation service is the determining factor in designing a prepayment audit program. Your agency must consider all of the methods that you use to order and pay for transportation and transportation services. With each method of ordering transportation and transportation services, your agency should ensure that each TSP bill contains enough information for the prepayment audit to determine which contract or rate tender is used and that the type and quantity of additional services are clearly delineated. Each method of ordering transportation and transportation services may require a different kind of prepayment audit.

§ 102–118.270 What advantages does the prepayment audit offer my agency?

Prepayment auditing will allow your agency to detect billing errors before payment and will eliminate the need to recover erroneous payments.

§ 102–118.275 What options for performing a prepayment audit does my agency have?

Your agency may perform a prepayment audit by:

- (a) Creating an internal prepayment audit program;
- (b) Contracting with a vendor for a prepayment audit; or
- (c) Using the services of a contractor under GSA's multiple award schedule covering audit and financial management services.

§ 102–118.280 Must every electronic and paper transportation bill undergo a prepayment audit?

All transportation bills and payments must undergo a prepayment audit unless the Administrator of General Services grants a specific waiver or your agency's prepayment audit program uses a statistically significant sampling of every bill to represent the whole.

§ 102–118.285 What are the limited exceptions to every bill undergoing a prepayment audit?

The limited exceptions to bills undergoing a prepayment audit are those bills subject to a waiver from GSA (which may include bills determined to be below your agency's threshold).

§ 102–118.290 How does my agency fund its prepayment audit program?

Your agency must pay for the prepayment audit from those funds appropriated for transportation services.

§ 102–118.295 Must my agency advise the TSP of any adjustment to the TSP's bill?

Yes, your agency must advise the TSP of any adjustment to the bill either electronically or in writing within 7 days of receipt of the bill. This notice must refer to the TSP's bill number, agency name, travel identification number, standard carrier alpha code, document reference number, amount requested, amount paid, payment voucher number, complete tender or tariff authority, including item or section number.

§ 102–118.300 Must my agency prepayment audit program establish appeal procedures whereby a TSP may appeal any reduction in the amount billed?

Yes, your agency must delegate the appeal process to an agency official at a high enough administrative level for adequate consideration and review of the circumstances of the claim. Your agency must complete the review of the appeal within 30 days.

§ 102–118.305 What must my agency do if the TSP disputes the findings and my agency cannot resolve the dispute?

(a) If your agency is unable to resolve the disputed amount, your agency should forward all relevant documents including a complete billing history, and the appropriation or fund charged, to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) The GSA Audit Division will review the appeal of an agency's final, full or partial denial of a claim and issue a decision. A TSP must submit claims within 3 years by following the guidelines established in § 102–118.460.

§ 102–118.310 What information must be on my agency's transportation bills on completion of a prepayment audit?

(a) Your agency must annotate all of its transportation bills submitted for prepayment audit with:

- (1) The date received from a TSP;
 - (2) A TSP's bill number;
 - (3) Your agency name;
 - (4) A Document Reference Number;
 - (5) The amount requested;
 - (6) The amount paid;
 - (7) The payment voucher number;
 - (8) Complete tender or tariff authority, including item or section number;
 - (9) The taxpayer identification number;
 - (10) The standard carrier alpha code;
 - (11) The auditor's authorization code or initials; and
 - (12) A copy of any statement of difference sent to the TSP.
- (b) Your agency can find added guidance in the handbook "How to

Prepare and Process Bills of Lading", obtainable from: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

Maintaining an Approved Program

§ 102–118.315 How do I get approval for my agency's prepayment audit program?

The highest level budget or financial official of each agency, such as the Chief Financial Officer, initially approves your agency's prepayment audit program. After internal agency approval, your agency submits the plan in writing to the GSA Audit Division for verification.

§ 102–118.320 What are the elements of an acceptable prepayment audit program?

An acceptable prepayment audit program must:

- (a) Verify all transportation bills against filed rates and charges before payment;
- (b) Comply with the Prompt Payment Act (31 U.S.C. 3901, *et seq.*);
- (c) Apply to cost reimbursable contractors. Your agency's prepayment audit program must include the transportation bills from a cost reimbursable contractor when the agency will assume those charges on bills;
- (d) Allow for your agency to establish minimum financial thresholds for auditing transportation bills;
- (e) Require your agency's paying office to offset debts from amounts owed to the TSP within the 3 years as per 31 U.S.C. 3726(b);
- (f) Arrange for the GSA Audit Division to verify the prepayment audit program. After this first verification, the agency may be subject to recurring annual program verification;
- (g) Complete accurate audits of transportation bills and notify the TSP of any adjustment within 7 calendar days of receipt;
- (h) Create accurate notices to the TSPs that describe in detail the reasons for any full or partial rejection of the stated charges on the invoice. An accurate notice must include the TSP's invoice number, the billed amount, TIN, standard carrier alpha code, the charges calculated by the agency, and the specific reasons including applicable rate authority for the rejection;
- (i) Forward documentation monthly to the GSA Audit Division, which will store paid transportation bills under the General Records Schedule 9, Travel and Transportation (36 CFR Chapter XII, 1228.22) which requires keeping records for 3 years. GSA will arrange for storage of any document requiring special

handling (e.g., bankruptcy, court case, etc.). These bills will be retained pursuant to 44 U.S.C. 3309 until claims have been settled; and

- (j) Establish procedures in which transportation bills not subject to prepayment audit (i.e. unused tickets and charge cards) are forwarded to the GSA Audit Division.

§ 102–118.325 What does the GSA Audit Division consider when verifying an agency prepayment audit program?

The GSA Audit Division bases verification of agency prepayment audit programs on objective cost-savings, paperwork reductions, current audit standards and other positive improvements, as well as adherence to the guidelines listed in this part.

§ 102–118.330 How does my agency contact the GSA Audit Division?

Your agency may contact the GSA Audit Division by writing to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.335 If my agency chooses to change a verified prepayment audit program, does the program need to be re-verified?

Yes, you must coordinate any changes in your agency's prepayment audit program with the GSA Audit Division.

Liability for Certifying and Disbursing Officers

§ 102–118.340 Does establishing a prepayment audit system or program change the responsibilities of the certifying officers?

Yes, in a prepayment audit environment, an official certifying a transportation voucher is held liable for verifying transportation rates, freight classifications, and other information provided on a transportation billing instrument or transportation request undergoing a prepayment audit (31 U.S.C. 3528).

§ 102–118.345 With a prepayment audit waiver, what liability does the certifying officer have?

A certifying official is not liable for verifying transportation rates, freight classifications, or other information provided on a GBL or passenger transportation request when the Administrator of General Services or designee waives the prepayment audit rules. This waiver of responsibility only applies to GBLs and GTRs (31 U.S.C. 3528).

§ 102–118.350 What relief from liability is available for the certifying official under a postpayment audit?

The agency counsel relieves a certifying official from liability for overpayments in cases where postpayment is the approved method of auditing and:

- (a) The overpayment occurred solely because the administrative audit process before payment did not verify transportation rates; and

- (b) The overpayment was the result of using improper transportation rates or freight classifications or the failure to deduct the correct amount under a land grant law or agreement.

§ 102–118.355 Do the requirements of a prepayment audit change the disbursing official's liability for overpayment?

Yes, the disbursing official has a liability for overpayments on all transportation bills subject to prepayment audit (31 U.S.C. 3322).

§ 102–118.360 Where does relief from prepayment audit liability for certifying, accountable, and disbursing officers reside in my agency?

Your agency's counsel has the authority to relieve liability and give advance opinions on liability issues to certifying, accountable, and disbursing officers (31 U.S.C. 3527).

Waivers From Mandatory Prepayment Audit

§ 102–118.365 Who has the authority to grant a waiver of the prepayment audit requirement?

Only the Administrator of General Services or designee has the authority to grant waivers from the prepayment audit requirement.

§ 102–118.370 How does my agency apply for a waiver from the requirement to perform a prepayment audit of transportation bills?

Your agency must submit a request for a waiver from the requirement to perform a prepayment audit in writing to: General Services Administration, Office of Transportation and Personal Property (MT), 1800 F Street, NW, Washington, DC 20405, <http://policyworks.gov/org/main/MT>.

§ 102–118.375 What must a waiver request include?

A waiver request must explain in detail how the use of a prepayment audit increases costs over a postpayment audit, decreases efficiency, involves a relevant public interest, adversely affects the agency's mission, or is not feasible for the agency.

§ 102–118.380 On what basis does GSA grant a waiver to the prepayment audit requirement?

GSA issues waivers to the prepayment audit requirement based on:

- (a) Cost-effectiveness;
- (b) Government efficiency;
- (c) Public interest; or
- (d) Other factors the Administrator of General Services considers appropriate.

§ 102–118.385 How long will GSA take to respond to a waiver request?

GSA will respond to a written waiver request within 30 days from the receipt of a waiver request.

§ 102–118.390 Must my agency renew its waiver to prepayment audits?

Yes, your agency waiver to the prepayment audit process will not exceed 2 years. Your agency must reapply to ensure the circumstances at the time of approval still apply.

§ 102–118.395 Are my agency's prepayment audited transportation bills subject to periodic postpayment audit oversight from the GSA Audit Division?

Yes. Two years or more after starting prepayment audits (depending on results), the GSA Audit Division may subject your agency's prepayment audited transportation bills to periodic postpayment audit oversight rather than blanket postpayment audits. The GSA Audit Division will then prepare a report analyzing the success of your agency's prepayment audit program. This report is on file and available for your review.

Suspension of Agency Prepayment Audit Programs**§ 102–118.400 Can GSA suspend my agency's prepayment audit program?**

(a) Yes, the Director of the GSA Audit Division may suspend your agency's prepayment audit program based on:

- (1) Failure to conduct an accurate prepayment audit of your agency's transportation bills;
- (2) A pattern of failure to abide by the terms of the Prompt Payment Act;
- (3) Failure to adjudicate TSP claims disputing prepayment audit positions of the agency regularly within 30 days of receipt;
- (4) Failure of the agency to follow Comptroller General decisions, GSA Board of Contract Appeals decisions, the Federal Management Regulation and GSA instructions or precedents about substantive and procedure matters; and/or
- (5) Failure to provide information and data or to cooperate with on-site inspections necessary to conduct a quality assurance review.

(b) A systematic or a multitude of individual failures will result in suspension. A suspension may be in whole or in part for failure to conduct proper prepayment audits.

Subpart E—Postpayment Transportation Audits**§ 102–118.405 Will the widespread mandatory use of prepayment audits eliminate postpayment audits?**

No, the mandatory use of prepayment audits will not eliminate postpayment audits because:

- (a) Postpayment audits will continue for those areas which do not lend themselves to the prepayment audit; and
- (b) The GSA Audit Division will continue to review and survey the progress of the prepayment audit by performing a postpayment audit on the bills. The GSA Audit Division has a Congressionally mandated responsibility under 31 U.S.C. 3726 to perform oversight on transportation bill payment. During the early startup period for prepayment audits, transportation bills are subject to a possible postpayment audit to discover the effectiveness of the prepayment audit process.

§ 102–118.410 Can the Administrator of General Services waive the postpayment auditing provisions of this subpart?

Yes, in certain circumstances, the Administrator of General Services or designee may waive the postpayment audit oversight requirements of this subpart on a case by case basis.

§ 102–118.415 When is my agency allowed to use a postpayment audit on our transportation bills?

Your agency may only use a postpayment audit when the Administrator of General Services has approved a waiver to the prepayment audit requirement.

§ 102–118.420 What information must be on my agency's transportation bills?

Your agency must annotate all of its transportation bills submitted for postpayment audit with:

- (a) The date received from a TSP;
- (b) A TSP's bill number;
- (c) Your agency name;
- (d) A Document Reference Number;
- (e) The amount requested;
- (f) The amount paid;
- (g) The payment voucher number;
- (h) Complete tender or tariff authority, including contract price (if purchased under the Federal Acquisition Regulation), item or section number;
- (i) The taxpayer identification number; and
- (j) The standard carrier alpha code.

§ 102–118.425 What are the procedures used to perform a postpayment audit?

When GSA performs a postpayment audit, the Administrator of General Services or his designee has the authority to implement the following procedures:

- (a) Audit selected TSP bills after payment;
- (b) Audit selected TSP bills before payment as needed to protect the Government's interest (*i.e.*, bankruptcy, fraud);
- (c) Examine, settle, and adjust accounts involving payment for transportation and related services for the account of agencies;
- (d) Adjudicate and settle transportation claims by and against agencies;
- (e) Offset an overcharge by any TSP from an amount subsequently found to be due that TSP;
- (f) Issue a Notice of Overcharge stating that a TSP owes a debt to the agency. This notice states the amount paid, the basis for the proper charge for the DRN, and cites applicable tariff or tender references with other data relied on to support the overcharge. A separate Notice of Overcharge is prepared and mailed for each transaction; and
- (g) Issue a GSA Notice of Indebtedness when an ordinary debt is due an agency. This notice states the basis for the debt, the TSP's rights, interest, penalty, and other results of nonpayment. The debt is due immediately and subject to interest charges, penalties, and administrative cost (31 U.S.C. 3717).

§ 102–118.430 What are the postpayment audit responsibilities and roles of the GSA Audit Division?

When the GSA Audit Division performs a postpayment audit for your agency, GSA will:

- (a) Examine and analyze payments to discover their validity, relevance and conformity with tariffs, quotations, contracts, agreements or tenders and make adjustments to protect the interest of an agency;
- (b) Examine, adjudicate, and settle transportation claims by and against the agency;
- (c) Collect from TSPs by refund, setoff, offset or other means, the amounts determined to be due the agency;
- (d) Adjust, terminate or suspend debts due on TSP overcharges;
- (e) Prepare reports to the Attorney General of the United States with recommendations about the legal and technical bases available for use in prosecuting or defending suits by or against an agency and provide technical,

fiscal, and factual data from relevant records;

(f) Provide transportation specialists and lawyers to serve as expert witnesses, assist in pretrial conferences, draft pleadings, orders, and briefs, and participate as requested in connection with transportation suits by or against an agency;

(g) Review agency policies, programs, and procedures to determine their adequacy and effectiveness in the audit of freight or passenger transportation payments, and review related fiscal and transportation practices;

(h) Furnish information on rates, fares, routes, and related technical data upon request;

(i) Tell an agency of irregular shipping routing practices, inadequate commodity descriptions, excessive transportation cost authorizations, and unsound principles employed in traffic and transportation management; and

(j) Confer with individual TSPs or related groups and associations

presenting specific modes of transportation to resolve mutual problems concerning technical and accounting matters and acquainting them with agency requirements.

§ 102–118.435 Must my agency pay for a postpayment audit when using the GSA Audit Division?

No, the expenses of postpayment audit contract administration and audit-related functions are financed from overpayments collected from TSP's bills paid by the agency and other similar type of refunds.

Subpart F—Claims and Appeal Procedures

General Agency Information for All Claims

§ 102–118.440 Can a TSP file a transportation claim against my agency?

Yes, a TSP may file a transportation claim against your agency under 31 U.S.C. 3726 for:

(a) Amounts owed but not included in the original billing;

(b) Amounts deducted or set off by an agency that are disputed by the TSP;

(c) Requests by a TSP for amounts previously refunded in error by that TSP; and/or

(d) Unpaid original bills requiring direct settlement by GSA, including those subject to doubt about the suitability of payment (mainly bankruptcy or fraud).

§ 102–118.445 What is the time limit for a TSP to file a transportation claim against my agency?

The time limits on a TSP transportation claim against the Government appear in the following table:

TIME LIMITS ON ACTIONS TAKEN BY TSP

Mode	Freight charges (years)	Statute
(a) Air Domestic	6	28 U.S.C. 2401, 2501.
(b) Air International	6	28 U.S.C. 2401, 2501.
(c) Freight Forwarders (subject to the IC Act)	3	49 U.S.C. 14705(f).
(d) Motor	3	49 U.S.C. 14705(f).
(e) Rail	3	49 U.S.C. 14705(f).
(f) Water (subject to the IC Act)	3	49 U.S.C. 14705(f).
(g) Water (not subject to the IC Act)	2	46 U.S.C. 745.
(h) TSPs exempt from regulation	6	28 U.S.C. 2401, 2501.

§ 102–118.450 What is the time limit for my agency to file a court claim with a TSP for freight charges, reparations, and loss or damage to the property?

Statutory time limits vary depending on the mode and the service involved

and may involve freight charges. The following tables list the time limits:

(A) TIME LIMITS ON ACTIONS TAKEN BY THE FEDERAL GOVERNMENT AGAINST TSPs

Mode	Freight charges	Reparations	Loss and damage
(1) Rail	3 years; 49 U.S.C. 11705	3 years; 49 U.S.C. 11705	6 years; 28 U.S.C. 2415.
(2) Motor	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(3) Freight Forwarders subject to the IC Act.	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(4) Water (subject to the IC Act) ...	3 years; 49 U.S.C., 14705(f)	3 years; 49 U.S.C., 14705(f)	6 years; 28 U.S.C. 2415.
(5) Water (not subject to the IC Act).	6 years; 28 U.S.C. 2415	2 years; 46 U.S.C. 821	1 year; 46 U.S.C., 1303(6) (if subject to Carriage of Goods by Sear Act, 46 U.S.C. 1300–1315).
(6) Domestic Air	6 years; 28 U.S.C. 2415	6 years; 28 U.S.C. 2415.
(7) International Air	6 years; 28 U.S.C. 2415	2 years; 49 U.S.C. 40105.

(B) TIME LIMITS ON ACTIONS TAKEN BY THE FEDERAL GOVERNMENT AGAINST TSPs EXEMPT FROM REGULATION

Mode	Freight	Reparations	Loss and damage
(1) All	6 years; 28 U.S.C. 2415	6 years; 28 U.S.C. 2415.

§ 102–118.455 Must my agency pay interest on a disputed amount claimed by a TSP?

No, interest penalties under the Prompt Payment Act (31 U.S.C. 3901, *et seq.*), are not required when payment is delayed because of a dispute between an agency and a TSP.

§ 102–118.460 Are there statutory time limits on filing an administrative claim with the GSA Audit Division?

Yes, an administrative claim must be received by the GSA Audit Division or its designee (the agency where the claim arose) within 3 years beginning the day after the latest of the following dates (except in time of war):

- (a) Accrual of the cause of action;
- (b) Payment of charges for the transportation involved;
- (c) Subsequent refund for overpayment of those charges; or
- (d) Deductions made to a TSP claim by the Government under 31 U.S.C. 3726.

§ 102–118.465 Does interest apply after certification of payment of claims?

Yes, interest under the Prompt Payment Act (31 U.S.C. 3901, *et seq.*) begins 30 days after certification for payment by GSA.

§ 102–118.470 How does my agency settle disputes with a TSP?

As a part of the prepayment audit program, your agency must have a plan to resolve disputes with a TSP.

§ 102–118.475 Is there a time limit for my agency to issue a decision on disputed claims?

Yes, your agency must issue a ruling on a disputed claim within 30 days of receipt of the claim.

§ 102–118.480 What if my agency fails to settle a dispute within 30 days?

(a) If your agency fails to settle a dispute within 30 days, the TSP may appeal to: General Services Administration, Federal Supply Service, Audit Division (FBA), Code: CC, 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) If the TSP disagrees with the administrative settlement by the Audit Division, the TSP may appeal to the General Services Contract Board of Appeals.

§ 102–118.485 May my agency appeal a decision by the General Services Board of Contract Appeals (GSBCA)?

No, your agency may not appeal a decision made by the GSBCA.

§ 102–118.490 What if a TSP submits a voluntary refund to my agency?

(a) An agency must report a voluntary refund to the GSA Audit Division (so

that no Notice of Overcharge or financial offset occurs), unless other arrangements are made (e.g., charge card refunds, etc.). These reports must be addressed to: General Services Administration, Federal Supply Service, Audit Division (FBA), Code: CC, 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

(b) Once a Notice of Overcharge is issued, then any refund is no longer considered voluntary and the agency must forward the refund to the GSA Audit Division.

§ 102.118.495 Must my agency send a voluntary refund to the Treasurer of the United States?

No, your agency may keep and use voluntary refunds submitted by a TSP, if the refund was made prior to a Notice of Overcharge issued by the GSA Audit Division.

§ 102–118.500 Can my agency revise or alter a GSA Form 7931, Certificate of Settlement?

Generally, no, an agency must not revise or alter amounts on a GSA Form 7931, Certificate of Settlement. The only change an agency can make to a GSA Form 7931 is to change the agency financial data to a correct cite. Any GSA Form 7931 that cannot be paid (e.g., an amount previously paid), must be immediately returned to the GSA Audit Division with an explanation.

§ 102–118.505 Does my agency have any recourse not to pay a Certificate of Settlement?

No, a Certificate of Settlement is the final administrative action.

§ 102–118.510 Who is responsible for determining the standards for collection, compromise, termination, or suspension of collection action on any outstanding debts to my agency?

Under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711, *et seq.*), the Comptroller General and the Attorney General have joint responsibility for issuing standards for your agency.

§ 102–118.515 What are my agency's responsibilities for verifying the correct amount of transportation charges?

Your agency's employees are responsible for diligently verifying the correct amount of transportation charges prior to payment (31 U.S.C. 3527).

§ 102–118.520 Will GSA instruct my agency's disbursing offices to offset unpaid TSP billings?

Yes, GSA will instruct one or more of your agency's disbursing offices to deduct the amount due from an unpaid TSP's bill. A 3-year limitation applies

on the deduction of overcharges from amounts due a TSP (31 U.S.C. 3726) and a 10-year limitation applies on the deduction of ordinary debt (31 U.S.C. 3716).

§ 102–118.525 Are there principles governing my agency's collection procedures?

Yes, the principles governing your agency collection procedures for reporting debts to the General Accounting Office (GAO) or the Department of Justice are found in 4 CFR parts 101 through 105 and in the GAO Policy and Procedures Manual for Guidance of Federal Agencies. The manual may be obtained by writing: Superintendent of Documents, Government Printing Office, Washington, DC 20402, <http://www.access.gpo.gov/>.

§ 102–118.530 Who has the authority to audit, settle accounts, and/or start collection action for all transportation services provided for my agency?

The Director of the GSA Audit Division has the authority and responsibility to audit and settle all transportation related accounts (31 U.S.C. 3726). The reason for this is that he or she has access to Governmentwide data on a TSP's payments and billings with the Government. Your agency has the responsibility to correctly pay individual transportation claims.

Transportation Service Provider (TSP) Filing Requirements**§ 102–118.535 What are the filing requirements for a TSP?**

Transportation service provider claims received by GSA or its designee must include one of the following:

(a) The signature of an individual or party legally entitled to receive payment for services;

(b) The signature of the claimant's agent or attorney accompanied by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant; or

(c) An electronic signature, when mutually agreed upon.

§ 102–118.540 How does a TSP file an administrative claim using EDI or other electronic means?

The medium and precise format of transmitting data for filing an administrative claim must be approved in advance by the GSA Audit Division. GSA will use an authenticating EDI signature to certify receipt, delivery of goods, and an itemized bill reflecting the services provided, with the lowest charges available for service. The TSP must be able to locate, identify, and

reproduce the records in readable form without loss of clarity.

§ 102–118.545 Can a TSP file a supplemental administrative claim?

Yes, a TSP may file a supplemental administrative claim. Each supplemental bill must cover charges relating to one paid transportation document.

§ 102–118.550 What is the required format that a TSP must use to file an administrative claim?

A TSP must bill for charges claimed on a SF 1113, Public Voucher for Transportation Charges, in the manner prescribed in the "How to Prepare Bills of Lading" handbook or the "U.S. Government Passenger Transportation" handbook. To get a copy of these handbooks, you may write to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102–118.555 What documentation is required when filing an administrative claim?

An administrative claim is settled using the information contained in the transportation document, payment record, reports and information available to GSA and/or to the agency involved and the written and documentary records submitted by the TSP. Oral presentations supplementing the written record are not acceptable.

Transportation Service Provider (TSP) Appeal Procedures for Prepayment Audits

§ 102–118.560 If my agency denies the challenge to the statement of difference, may the TSP appeal?

Yes, the TSP may appeal if your agency denies the challenge to the statement of difference. However, the appeal must be handled at a higher level in your agency.

§ 102–118.565 If a TSP disagrees with the decision of my agency, can the TSP appeal?

Yes, the TSP may file a claim with the GSA Audit Division, which will review the appeal of your agency's final full or partial denial of a claim. The TSP may also appeal if your agency has not responded to a challenge within 30 days.

§ 102–118.570 If a TSP disagrees with a prepayment audit decision of the GSA Audit Division can they appeal?

(a) Yes, the TSP may appeal to the GSA's Board of Contract Appeals (GSBCA), by following guidelines established in this subpart or file a

claim with the United States Court of Federal Claims. A request for review by the GSBCA must be received in writing within 6 months (not including time of war) from the date the settlement action was taken or within the periods of limitation specified in 31 U.S.C. 3726, as amended, whichever is later. The TSP must address requests to: GSA Board of Contract Appeals, 1800 F Street, NW, Room 7022, Washington, DC 20405.

(b) The GSBCA will accept legible submissions via facsimile (FAX) on (202) 501–0664.

§ 102–118.575 If a TSP disagrees with a prepayment audit decision of the GSBCA, can they appeal?

No, a ruling by the GSBCA is the final administrative remedy and the TSP has no statutory right of appeal. This subpart governs administrative actions only and does not affect any rights a TSP may have to pursue a legal remedy.

§ 102–118.580 If my agency disagrees with a prepayment or postpayment audit decision of the GSA Audit Division can they appeal?

No, your agency may not appeal. A GSA Audit Division decision is administratively final for your agency.

§ 102–118.585 May my agency appeal a prepayment audit decision by the GSBCA?

No, your agency may not appeal a prepayment audit decision. Your agency must follow the ruling of the GSBCA.

Transportation Service Provider (TSP) Appeal Procedures for Postpayment Audits

§ 102–118.590 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

A TSP who disagrees with the Notice of Overcharge may submit a written request for reconsideration to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405 <http://pub.fss.gsa.gov/ota>.

§ 102–118.595 What if a TSP disagrees with the Notice of Indebtedness?

If a TSP disagrees with an ordinary debt, which is the subject of a Notice of Indebtedness, it may:

- (a) Inspect and copy the agency's records related to the claim;
- (b) Seek administrative review by GSA of the claim decision; and/or
- (c) Enter a written agreement for the payment of the claims.

§ 102–118.600 Is a TSP notified when GSA allows a claim?

Yes, the GSA Audit Division will acknowledge each payable claim using

GSA Form 7931, Certificate of Settlement. The certificate will give a complete explanation of any amount that is disallowed. GSA will forward the certificate to the agency whose funds are to be charged for processing and payment.

§ 102–118.605 Will GSA notify a TSP if they internally offset a payment?

Yes, the GSA Audit Division will inform the TSP if they internally offset a payment.

§ 102–118.610 How will a TSP know if the GSA Audit Division disallows a claim?

The GSA Audit Division will furnish a GSA Form 7932, Settlement Certificate, to the TSP explaining the disallowance.

§ 102–118.615 Can a TSP request a reconsideration of a settlement action by the GSA Audit Division?

Yes, a TSP desiring a reconsideration of a settlement action may request a review by the Administrator of General Services.

§ 102–118.620 How must a TSP refund amounts due to GSA?

(a) TSPs must promptly refund amounts due to GSA. If an EFT is not used, checks must be made payable to "General Services Administration", including the document reference number, TSP name, bill number(s), taxpayer identification number and standard carrier alpha code, then mailed to: General Services Administration, P.O. Box 93746, Chicago, IL 60673.

(b) If an EFT address is needed, please contact the GSA Audit Division at: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

Note to § 102–118.620: Amounts collected by GSA are returned to the Treasurer of the United States (31 U.S.C. 3726).

§ 102–118.625 Can the Government charge interest on an amount due from a TSP?

Yes, the Government can charge interest on an amount due from a TSP. This procedure is provided for under the Debt Collection Act (31 U.S.C. 3717), the Federal Claims Collection Standards (4 CFR parts 101 through 105), and 41 CFR part 105–55.

§ 102–118.630 If a TSP fails to pay or appeal an overcharge, what actions does GSA pursue to ensure debt collection?

GSA will pursue debt collection through one of the following methods:

- (a) When an indebted TSP files a claim, GSA will apply all or any portion of the amount it determines to be due the TSP, to the outstanding balance

owed by the TSP, under the Federal Claims Collection Standards (4 CFR parts 101 through 105) and 41 CFR part 105-55;

(b) When the action outlined in paragraph (a) of this section cannot be taken by GSA, GSA will instruct one or more Government disbursing offices to deduct the amount due to the agency from an unpaid TSP's bill. A 3-year limitation applies on the deduction of overcharges from amounts due a TSP (31 U.S.C. 3726) and a 10-year limitation applies on the deduction of ordinary debt (31 U.S.C. 3716);

(c) When collection cannot be accomplished through either of the procedures in paragraph (a) or (b) of this section, GSA normally sends two additional demand letters to the indebted TSP requesting payment of the amount due within a specified time. Lacking a satisfactory response, GSA may place a complete stop order against amounts otherwise payable to the indebted TSP by adding the name of that TSP to the Department of the Army "List of Contractors Indebted to the United States"; and/or

(d) When collection actions, as stated in paragraphs (a) through (c) of this section are unsuccessful, GSA may report the debt to the Department of Justice for collection, litigation, and related proceedings, as prescribed in 4 CFR parts 101 through 105.

§ 102-118.635 Can a TSP file an administrative claim on collection actions?

Yes, a TSP may file an administrative claim involving collection actions resulting from the transportation audit performed by the GSA directly with the GSA Audit Division. Any claims

submitted to GSA will be considered "disputed claims" under section 4(b) of the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). The TSP must file all other transportation claims with the agency out of whose activities they arose. If this is not feasible (e.g., where the responsible agency cannot be determined or is no longer in existence) claims may be sent to the GSA Audit Division for forwarding to the responsible agency or for direct settlement by the GSA Audit Division. Claims for GSA processing must be addressed to: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW, Washington, DC 20405, <http://pub.fss.gsa.gov/ota>.

§ 102-118.640 Can a TSP request a review of a settlement action by the Administrator of General Services?

Yes, a TSP desiring a review of a settlement action taken by the Administrator of General Services may request a review by the GSA Board of Contract Appeals (GSBCA) or file a claim with the United States Court of Federal Claims (28 U.S.C. 1491).

§ 102-118.645 Are there time limits on a request for an administrative review by the GSBCA?

(a) Yes, the GSBCA must receive a request for review within six months (not including time of war) from the date the settlement action was taken or within the periods of limitation specified in 31 U.S.C. 3726, as amended, whichever is later. The request must be addressed to: GSA Board of Contract Appeals 1800 F Street, NW, Room 7022, Washington, DC 20405.

(b) The GSBCA will accept legible submissions via facsimile (FAX) on (202) 501-0664.

§ 102-118.650 If a TSP disagrees with a postpayment audit decision of the GSBCA, can they appeal?

No, a ruling by the GSBCA is the final administrative remedy and the TSP has no statutory right of appeal. This subpart governs administrative actions only and does not affect any rights a TSP may have to pursue a legal remedy.

§ 102-118.655 May my agency appeal a postpayment audit decision by the GSBCA?

No, your agency may not appeal a postpayment audit decision and must follow the ruling of the GSBCA.

Transportation Service Provider (TSP) Non-Payment of a Claim

§ 102-118.660 If a TSP cannot immediately pay a debt, can they make other arrangements for payment?

Yes, if a TSP is unable to pay the debt promptly, the Director of the GSA Audit Division has the discretion to enter into alternative arrangements for payment.

§ 102-118.665 What if a TSP does not pay a transportation debt?

If a TSP does not pay a transportation debt, GSA may refer delinquent debts to consumer reporting agencies and Federal agencies including the Department of the Treasury and Department of Justice.

Dated: February 14, 2000.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

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