

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action finds that several air agencies have failed to submit SIP revisions in response to findings of substantial inadequacy under section 110(k)(5) of the CAA. No Tribe is subject to the requirement to submit an implementation plan under the findings of inadequacy relevant to this action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it relates to the requirement in the CAA for States to submit SIPs in response to findings of substantial inadequacy under CAA section 110(k)(5) and does not directly or disproportionately affect children.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This final action does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on communities with EJ concerns.

The EPA believes it is not practicable to assess whether the conditions that exist prior to this proposed action result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples.

While it is difficult to assess the environmental justice implications of this proposed action because the EPA cannot geographically identify or quantify the resulting source-specific emission reductions, the EPA recognizes the potential for neutral or adverse environmental justice issues associated with this action. However, the EPA views this action as a necessary procedural step following the D.C. Circuit decision and vacatur of portions of the 2015 SSM SIP call.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

M. Judicial Review

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, but “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

This final action is “nationally applicable” within the meaning of CAA section 307(b)(1). In the alternative, to the extent a court finds this final action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1).¹² This final action consists of a partial withdrawal of findings of failure to submit required SIPs from six States and/or local air jurisdictions, including the District of Columbia, located in 5 of the 10 EPA regions, and in 6 different federal

¹² In deciding whether to invoke the exception by making and publishing a finding that this final action is based on a determination of nationwide scope or effect, the Administrator has also taken into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit’s authoritative centralized review versus allowing development of the issue in other contexts and the best use of Agency resources.

judicial circuits.¹³ This final action is also based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and hereby finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Joseph Goffman,

Assistant Administrator.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–118

[FMR Case 2023–02; Docket No. GSA–FMR–2023–0014; Sequence No. 2]

RIN 3090–AK73

Federal Management Regulation; Transportation Payment and Audit Regulations

AGENCY: Office of Government-Wide Policy (OGP), General Services Administration (GSA).

¹³ In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator’s determination that the “nationwide scope or effect” exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

ACTION: Final rule.

SUMMARY: The United States General Services Administration (GSA) is issuing a final rule amending the Federal Management Regulation (FMR). This amendment executes changes that include the removal, addition, and revision of definitions, the elimination of gender pronouns, the simplification of requirements, the alteration of statutory references, and the clarification of GSA's role in adjudicating disputes arising from audits of transportation bills. These adjustments are necessary to furnish accurate guidance for agencies, facilitate proper management and compliance with transportation invoice payment and audit obligations.

DATES: *Effective date:* December 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Siegel, Policy Analyst, at 202-702-0840 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FMR Case 2023-02.

SUPPLEMENTARY INFORMATION:

I. Background

The Travel and Transportation Reform Act of 1998 (Pub. L. 105-264) established the statutory requirement for agencies to perform an audit of transportation expenses prior to payment, assigned to the Administrator of GSA (Administrator) the authority to prescribe regulations for the audit of transportation invoices prior to payment, and the statutory authority for audit oversight of transportation invoices to protect the financial interests of the Government (31 U.S.C. 3726). The law also provides the Administrator the power to conduct prepayment or postpayment audits of transportation bills of any Federal agency. GSA has codified these requirements in 41 CFR part 102-118, Transportation Payment and Audit (Federal Management Regulation (FMR) part 102-118).

Certain other statutes collectively empower the Administrator to create regulations governing various aspects of Federal procurement for transportation, ensuring compliance with Federal laws, and promoting the efficient use of Government resources. These include 40 U.S.C. 501, which grants the Administrator the authority to establish regulations for executive agencies regarding the procurement and supply of personal property, nonpersonal services, and related functions,

including transportation and transportation services. Additionally, 49 U.S.C. 40118 authorizes the Administrator to prescribe regulations allowing agencies to expend appropriations for transportation in violation of the requirements of said section.

GSA last amended FMR part 102-118 on May 31, 2022 (87 FR 32320), to perform editorial and technical changes. That direct final rule introduced the GSA Transportation Audit Management System (TAMS), corrected inaccurate and outdated information, and removed obsolete references to programs, legal citations, and forms. It revised general contact information, corrected hyperlinks, clarified conditions for using certain forms and revised outdated and inaccurate administrative procedures.

This final rule modifies definitions that apply to this part, which include incorporating previously undefined terms such as Civilian Board of Contract Appeals (CBCA), refund, and Transportation Audits Management System (TAMS). Furthermore, definitions of forms used exclusively by the GSA Transportation Audits Division have been removed from individual sections and added to the definitions, while terms such as EDI signature, repairation, statement of difference rebuttal, and virtual Government Bill of Lading (GBL), have been removed from the definitions section because the terms are not utilized in this part. Additionally, some definitions have been amended to enhance clarity including the terms cash, Government contractor-issued charge card, and offset. GSA updated the definition of a Government contractor-issued charge card and introduced a new definition for an individually billed travel card. This change was made to define and explain the distinction between the two types of charge cards that the Government may use to procure transportation. The revised definitions clarify agency responsibilities, thereby significantly reducing ambiguity and the potential for non-compliance.

This final rule continues to improve upon the changes introduced in the aforementioned direct final rule published on May 31, 2022. That rule eliminated unnecessary procedures for agencies to request GBL and Government Transportation Request (GTR) forms, along with their corresponding control numbers. GSA has amended this FMR part to provide agencies with additional information regarding the requirement to assign numbers to these forms and to manage

and track each issued GBL and GTR transportation document.

With the publication of this rule, GSA grants agencies discretion in using a GBL for domestic shipping. Agencies, and not GSA, are responsible for maintaining physical control and accountability of the GBLs they issue. In its present form, this FMR part restricts the use of a GBL to international shipments, however GSA acknowledges that agencies might occasionally need to issue a GBL for domestic shipments. Therefore, since agencies are obligated to manage the GBLs they issue, they should have the flexibility to decide when using a GBL is necessary to fulfill their mission. Providing Federal agencies with the latitude to issue GBLs when it is mission-essential enhances their ability to respond promptly and efficiently to critical needs, ensures better control and oversight of transportation processes, optimizes resource use, and can result in cost savings and legal protections. This flexibility is crucial for maintaining the effectiveness and efficiency of Federal operations, especially in times of urgency. Additionally, GSA clarifies that a bill of lading can be used to procure both transportation and transportation services.

This rule updates the requirement for agencies to provide a copy of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs to the GSA Transportation Audits Division. The revised regulation now requires agencies to send copies of rates provided by pipeline carriers as well. GSA corrected information including legal references related to actions by and against the Government. The revised information now lists proper authorities and deadlines for filing freight charges, loss and damage claims, and filing claims against a TSP for the collection of overcharges.

Lastly, GSA has removed gender pronouns from this FMR part. The removal of gender pronouns promotes inclusivity and modernizes the language of the regulation.

II. Discussion of the Final Rule

A. Summary of Significant Changes

This final rule provides agencies with additional clarification on the role of the TAMS and its benefit to TSPs, specifically when filing certain claims. It also outlines the circumstances under which Federal agencies use the TAMS. Additionally, when agencies submit their paid transportation invoices and other documentation through the TAMS, it allows the GSA Transportation Audits Division to

maintain and store these transportation records in accordance with the General Records Schedule.

The GSA Transportation Audits Division maintains a central repository of electronic transportation billing records for legal and auditing purposes. Therefore, to comply with the Office of Management and Budget Memorandum M–23–07, GSA now requires agencies to submit their payment documentation for a post payment audit via the TAMS. Other documents that may need to be sent to GSA Transportation Audits Division will only be accepted electronically via email. Consequently, physical mailing addresses have been removed from this FMR part. This change is expected to reduce costs for agencies, streamline the reporting process, and eliminate the need for mailing documents to the GSA Transportation Audits Division. TSPs are also permitted to use the TAMS to file a claim with the GSA Transportation Audits Division; however, its use by TSPs is not required. It is also important to note that as of July 2022, all department level agencies were compliant with this requirement, therefore mandating this requirement should have no additional effect on agency procedures.

GSA has also included updated regulatory language addressing the agency's role in adjudicating disputes arising from audits of transportation bills. The Administrator of GSA has the authority to "adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill" (31 U.S.C. 3726(c)). GSA acknowledges that its notice of proposed rulemaking (89 FR 12296, February 16, 2024) did not expressly state that such authority is limited to "transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill." 31 U.S.C. 3726(c). Upon further review of the statute and other relevant factors, including judicial decisions interpreting these provisions, GSA has updated the regulatory text in this final rule to accurately reflect the statutory text.

GSA's procedures for performing an audit are incorporated in subpart F of this FMR part and apply to all procurement vehicles and methods available to agencies to procure transportation and transportation services. This language is included for clarity, creates no additional cost, and requires no additional effort by the TSP.

B. Analysis of Public Comments

In the proposed rule published at 89 FR 12296 on February 16, 2024, GSA provided the public a 60-day comment period which ended on April 16, 2024. GSA received one timely comment, which is from an anonymous source. As a result of the comment, minor changes were made from the proposed rule to the final rule.

Comment: "I agree that a change is needed to § 102–118.460(a)(5) [sic] because the current reference is incorrect however I think the timeline for filing a claim with the court should remain at 1 year."

Response: After review, GSA restored the time limit in the "loss and damage" column of § 102–118.460(a)(5) to 1-year. Only the legal references have been revised in this section.

In addition, GSA received an untimely comment from Crowley Maritime Services. In the comment, Crowley requested that the agency "extend" the comment period, but Crowley provided no explanation as to why an extension would be appropriate. GSA therefore declines to consider the late-filed comment. GSA also notes that Crowley's comment primarily concerns the scope of the agency's dispute-resolution authority. This rule's discussion of that authority is consistent with the relevant statutory language. See 31 U.S.C. 3726.

III. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) amends section 3(f) of E.O. 12866 and supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action, and therefore, is not subject to review under section 6(b) of E.O. 12866.

IV. Congressional Review Act

OIRA has determined that this rule is not a "major rule" under 5 U.S.C. 804(2). Title II, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, unless excepted, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This rule is excepted from CRA reporting requirements prescribed under 5 U.S.C. 801 as it relates to agency management or personnel under 5 U.S.C. 804(3)(B).

V. Regulatory Flexibility Act

This final 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.* This final rule is also exempt from the Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis was not performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Part 102–118

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

Robin Carnahan,

Administrator, General Services Administration.

For the reasons set forth in the preamble, GSA amends 41 CFR part 102–118 as follows:

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

■ 1. The authority citation for 41 CFR part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.*; 46 U.S.C. 55305; 49 U.S.C. 40118.

§ 102–118.25 [Amended]

- 2. Amend § 102–118.25 by removing “may request” and adding “is required” in its place.
- 3. Amend § 102–118.35 by:
 - a. Adding, in alphabetical order, the definitions “ACH (automated clearinghouse)” and “Agency purchase card”;
 - b. Revising the definition of “Cash”;
 - c. Adding, in alphabetical order, the definitions of “Certificate of Settlement” and “Civilian Board of Contract Appeals (CBCA)”;
 - d. Removing the definition of “EDI signature”;
 - e. Removing the definitions of “Electronic data interchange” and “Government contractor-issued charge card” and adding the definitions of “Electronic data interchange (EDI)” and “Government contractor issued charge card” in their places, respectively;
 - f. Adding, in alphabetical order, the definitions of “Individually billed travel card”, “Notice of Indebtedness”, and “Notice of Overcharge”;
 - g. Revising the definition of “Offset”;
 - h. Adding, in alphabetical order, the definition of “Refund”;
 - i. Removing the definition of “Reparation”;
 - j. Revising the definition of “Statement of difference”;
 - k. Removing the definition of “Statement of difference rebuttal”;
 - l. Adding, in alphabetical order, the definition of “Transportation Audits Management System (TAMS)”;
 - m. Removing the definition of “Virtual GBL (VGBL)”.

The additions and revisions read as follows:

§ 102–118.35 What definitions apply to this part?

ACH (automated clearinghouse) means a nationwide network through which depository institutions send each other batches of electronic credit and debit transfers.

Agency purchase card means a charge card used by an authorized agency purchaser to procure, order, and pay for supplies and services.

Cash means cash, personal checks, personal charge/credit cards, and traveler’s checks.

Certificate of Settlement means a formal notice to an agency that provides a complete explanation of any amount that is disallowed. GSA produces and transmits the Certificate of Settlement (GSA Form 7931) to the agency whose funds are to be charged for processing and payment.

Civilian Board of Contract Appeals (CBCA) means an independent court within GSA that settles transportation payment claims disputes between Federal agencies and transportation service providers (TSPs). For additional information on the CBCA see https://www.cbca.gov/index.html.

Electronic data interchange (EDI) means electronic techniques for carrying out transportation transactions using electronic transmissions of the information between computers instead of paper documents. These electronic transmissions must use established and published formats and codes as authorized by the applicable Federal Information Processing Standards.

Government contractor issued charge card means an individually billed travel card or an agency purchase card.

Individually billed travel card means the charge card used by authorized individuals to pay for official travel and transportation related expenses for which the contractor bills the employee. This is different from a centrally billed account paying for official travel and transportation related expenses for which the agency is billed.

Notice of Indebtedness means a formal notice issued to a TSP that owes an ordinary debt to 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 is subject to interest charges, penalties, and administrative cost under 31 U.S.C. 3717.

Notice of Overcharge means a formal notice to a TSP that owes a debt to the agency. It shows the TSP the amount paid and the basis for the proper charge for the document reference number (DRN), and cites applicable contract, tariff, or tender, along with other data relied on to support the overcharge.

Offset means withholding money from a payment. In this part, money withheld refers to the funds owed a TSP that are not released by the agency but instead used to repay the Government for a debt incurred by the TSP.

Refund means the amount collected from outside sources for payments made in error, overpayment, or adjustments for previous amounts disbursed.

Statement of difference means a statement issued by an agency or its designated audit contractor during a prepayment audit when it has been determined that a TSP has billed the agency for more than the proper amount

for the services. This statement tells the TSP 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. This can be an electronic process.

Transportation Audits Management System (TAMS) means the GSA’s cloud-based postpaid transportation invoice auditing solution for Federal agencies and TSPs.

§ 102–118.40 [Amended]

- 4. Amend § 102–118.40 by:
 - a. In paragraph (a), removing “Government contractor-issued charge card, purchase order (or electronic equivalent), or a Government bill of lading for international shipments (including domestic overseas shipments)” and adding “Government contractor issued charge card, purchase order (or electronic equivalent), or a bill of lading including a Government bill of lading” in its place; and
 - b. In paragraph (b), removing “Government issued charge card (or centrally billed travel account citation), Government issued individual travel charge card, personal charge card,” and adding “Government contractor issued charge card, centrally billed travel account, personal charge/credit card,” in its place.
- 5. Amend § 102–118.45 by revising paragraphs (a)(1)(i) and (a)(3)(i) and (ii) to read as follows:

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

TRANSPORTATION SERVICE PROVIDER BILLING

(a) Ordering method	*****
(1)(i) Government contractor issued charge card; and ...	*****
(3)(i) Government contractor issued charge card (individually billed travel card);	*****
(ii) Personal charge/credit card; and	*****

- 6. Amend § 102–118.50 by:
 - a. Revising paragraph (a); and

■ b. In paragraph (c), removing “(31 CFR part 208)”.

The revision reads as follows:

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

* * * * *

(a) *Electronic funds transfer (EFT)*. Your agency is required by statute (31 U.S.C. 3332, *et seq.*) to make all payments by EFT unless your agency receives a waiver from the Department of the Treasury.

* * * * *

■ 7. Revise § 102–118.75 to read as follows:

§ 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 obtain an account with a financial institution or approved payment agent in order to meet the statutory requirements to 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 Secretary of the Treasury. For information visit: <https://www.fiscal.treasury.gov/>

■ 8. Amend § 102–118.80 by revising the third sentence to read as follows:

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

* * * Therefore, your agency must utilize the Transportation Audits Management System (TAMS) (<https://tams.gsa.gov/>) to submit all relevant electronic transportation billing documents or submit via email to: qmcatairiffs@gsa.gov.

■ 9. Revise § 102–118.115 to read as follows:

§ 102–118.115 Must my agency use a GBL?

No. Your agency is required to use commercial payment practices to the maximum extent possible. Your agency may use a GBL as needed for domestic shipments and should use a GBL for international shipments. When used for shipments, a GBL is a receipt of goods, evidence of title, and a contract of carriage for Government shipments and was developed to protect the interest of the U.S. Government.

§ 102–118.130 [Amended]

■ 10. Amend § 102–118.130 by removing the last sentence.

■ 11. Amend § 102–118.150 by revising paragraph (a) to read as follows:

§ 102–118.150 What are the major mandatory terms and conditions governing the use of passenger transportation documents?

* * * * *

(a) Government travel must be via the lowest cost available that meets travel requirements (*e.g.*, Government contract, fare, through, excursion, or reduced one way or round trip fare);

* * * * *

■ 12. Revise § 102–118.235 to read as follows:

§ 102–118.235 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, use, and accountability of GBLs and GTRs and must have procedures in place to track, manage, and account for these documents when necessary.

■ 13. Revise § 102–118.255 to read as follows:

§ 102–118.255 Are GBL and GTR forms numbered and used sequentially?

Yes, GBLs and GTRs must be sequentially numbered by agencies when used.

■ 14. Amend § 102–118.260 by revising paragraph (a) to read as follows:

§ 102–118.260 Must my agency send all quotations, tenders, or contracts with a TSP to GSA?

(a) Yes, your agency must send a copy of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs including those authorized by 49 U.S.C. 10721, 13712, and 15504 upon execution to qmcatairiffs@gsa.gov.

* * * * *

■ 15. Amend § 102–118.285 by:

- a. Revising paragraph (e);
- b. Removing paragraph (f); and
- c. Redesignating paragraphs (g) through (m) as paragraphs (f) through (l), respectively.

The revision reads as follows:

§ 102–118.285 What must be included in an agency’s transportation prepayment audit program?

* * * * *

(e) Agencies must use GSA Transportation Audits Division’s electronic commerce system, TAMS, to fulfill all monthly reporting requirements. Filing all documents through TAMS ensures that GSA Transportation Audits Division will properly maintain and store transportation records, including paid transportation bills, in accordance with the General Records Schedule 1.1 *et seq.*

(36 CFR part 1220). GSA will also arrange for storage of any document requiring special handling, such as bankruptcy and court cases. These bills will be retained pursuant to 44 U.S.C. 3309 until claims have been settled.

* * * * *

§ 102–118.300 [Amended]

■ 16. Amend § 102–118.300 by, in paragraph(a), removing “by email at Audit.Policy@gsa.gov, or by mail to: U.S. General Services Administration, 1800 F St. NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405” and adding “via TAMS (<https://tams.gsa.gov/>), or by email to Audit.Policy@gsa.gov” in its place.

■ 17. Amend § 102–118.425 by revising the section heading and paragraph (a) to read as follows:

§ 102–118.425 Is my agency required to forward all transportation documents (TDs) to GSA Transportation Audits Division, and what information must be on these documents?

(a) Yes, your agency must provide all TDs, via TAMS, to GSA Transportation Audits Division (see § 102–118.35 for the definition of TD).

* * * * *

■ 18. Amend § 102–118.430 by:

- a. Revising paragraph (f); and
- b. In paragraph (g), removing the second and third sentences.

The revision reads as follows:

§ 102–118.430 What is the process the GSA Transportation Audits Division employs to conduct a postpayment audit?

* * * * *

(f) Issues a Notice of Overcharge stating that a TSP owes a debt to the agency; and

* * * * *

§ 102–118.435 [Amended]

■ 19. Amend § 102–118.435 by, in paragraph (a)(7), removing “freight or passenger” and adding “all” in its place.

§ 102–118.440 [Amended]

■ 20. Amend § 102–118.440 by, in the second sentence, removing “type” and adding “types” in its place.

■ 21. Revise § 102–118.455 to read as follows:

§ 102–118.455 What is the time limit for a TSP to file a transportation claim with the GSA Transportation Audits Division against my agency?

The time limits on a TSP transportation claim against the Government differ by mode as shown in the following table:

TIME LIMITS ON ACTIONS TAKEN BY TSP

Mode	Freight charges	Statute
(a) Air domestic	6 years	28 U.S.C. 2401, 2501.
(b) Air international	6 years	28 U.S.C. 2401, 2501.
(c) Freight forwarders (subject to 49 U.S.C. chapter 135)	3 years	49 U.S.C. 14705(f).
(d) Motor	3 years	49 U.S.C. 14705(f).
(e) Rail	3 years	49 U.S.C. 11705(f).
(f) Water (subject to 49 U.S.C. chapter 135)	3 years	49 U.S.C. 14705(f).
(g) Water (not subject to 49 U.S.C. chapter 135)	2 years	46 U.S.C. 30905.
(h) TSPs not specified in paragraphs (a) through (g) of this section.	6 years	28 U.S.C. 2401, 2501.

■ 22. Revise § 102–118.460 to read as follows:

§ 102–118.460 What is the time limit for my agency to file a court claim with a TSP for freight charges, refund of overpayment, 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	Refund for overpayment	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 49 U.S.C. chapter 135).	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 49 U.S.C. chapter 135).	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 49 U.S.C. chapter 135).	6 years. 28 U.S.C. 2415	3 years. 46 U.S.C. 41301	1 year; Carriage of Goods By Sea Act, 46 USC 30701 Notes.
(6) Domestic air	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415.
(7) International air	6 years. 28 U.S.C. 2415	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 not specified in paragraph (a) of this section.*

Mode	Freight	Refund for overpayment	Loss and damage
(1) All	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415.
(2) [Reserved].			

■ 23. Amend § 102–118.470 by revising the section heading and introductory text to read as follows:

§ 102–118.470 Are there statutory time limits for a TSP on filing a claim with the GSA Transportation Audits Division?

Yes, a claim must be received by the GSA Transportation Audits 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):

* * * * *

■ 24. Revise § 102–118.490 to read as follows:

§ 102–118.490 What if my agency fails to settle a disputed claim with a TSP within 30 days?

(a) If your agency fails to settle a disputed claim with a TSP within 30 days, the TSP may appeal to GSA via TAMS—<https://tams.gsa.gov>.

(b) If the TSP disagrees with the administrative settlement by the GSA

Transportation Audits Division, the TSP may appeal to the Civilian Board of Contract Appeals (CBCA) (see § 102–118.35 for a definition of Civilian Board of Contract Appeals (CBCA)).

■ 25. Amend § 102–118.500 by revising paragraph (a) to read as follows:

§ 102–118.500 How does my agency handle a voluntary refund submitted by a TSP?

(a) An agency must report all voluntary refunds to the GSA Transportation Audits 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 sent via email to: audit.policy@gsa.gov.

* * * * *

■ 26. Amend § 102–118.510 by:

- a. Revising the section heading; and
- b. Removing “GSA Form 7931” and adding “Certificate of Settlement” in its place.

The revision reads as follows:

§ 102–118.510 Can my agency revise or alter a Certificate of Settlement?

* * * * *

■ 27. Revise § 102–118.540 to read as follows:

§ 102–118.540 Who has the authority to audit and settle bills for all transportation services provided for my agency?

(a) The Administrator of GSA has the authority and responsibility to audit and settle all transportation bills. The number and types of bills audited shall be based on the Administrator’s judgment (31 U.S.C. 3726(b)). The Administrator has authority to administratively adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill pursuant to 31 U.S.C. 3726(c).

(b) The Administrator has delegated the responsibility set out in paragraph

(a) of this section to the Director of the GSA Transportation Audits Division because the Director has access to Governmentwide data including TSP rates, agency paid TSP invoices, and transportation billings with the Government. Your agency must correctly pay individual transportation invoices (see 31 U.S.C. 3351(4), *Improper Payment* definition).

■ 28. Revise § 102–118.545 to read as follows:

§ 102–118.545 What information must a TSP claim include?

All claims filed with GSA Transportation Audits Division either using TAMS (preferred) or via email (protests@gsa.gov) must include:

- (a) The transportation document.
- (b) An explanation for the claim.
- (c) Any additional supporting documentation.

■ 29. Amend § 102–118.550 by revising the section heading to read as follows:

§ 102–118.550 How does a TSP file a claim using EDI or other electronic means?

* * * * *

■ 30. Amend § 102–118.555 by:

- a. Revising the section heading; and
- b. Removing “administrative” from the first sentence.

The revision reads as follows:

§ 102–118.555 Can a TSP file a supplemental claim?

* * * * *

■ 31. Revise § 102–118.560 to read as follows:

§ 102–118.560 What is the required format that a TSP must use to file a claim?

There is no required format for filing claims. TSPs should file a claim through TAMS or by sending the required information and documentation (see §§ 102–118.545 and 102–118.565) to GSA Transportation Audits Division via email to protests@gsa.gov.

■ 32. Amend § 102–118.565 by:

- a. Revising the section heading; and
- b. Removing “An administrative claim” and adding “A claim” in its place.

The revision reads as follows:

§ 102–118.565 What documentation is required when filing a claim?

* * * * *

■ 33. Revise § 102–118.600 to read as follows:

§ 102–118.600 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

A TSP that disagrees with the Notice of Overcharge may submit a protest to the GSA Transportation Audits Division

via TAMS (<https://tams.gsa.gov>) or email to protests@gsa.gov.

■ 34. Revise § 102–118.610 to read as follows:

§ 102–118.610 Is a TSP notified when GSA allows a claim?

Yes, the GSA Transportation Audits Division will acknowledge each payable claim using a Certificate of Settlement.

■ 35. Revise § 102–118.615 to read as follows:

§ 102–118.615 Will GSA notify a TSP if they internally offset a payment?

Yes, the GSA Transportation Audits Division will notify the TSP via TAMS or email if GSA offsets a payment.

■ 36. Revise § 102–118.630 to read as follows:

§ 102–118.630 How must a TSP refund amounts due to GSA?

(a) TSPs must promptly refund amounts due to GSA, preferably via TAMS or by ACH. If an ACH is not used, checks must be made payable to the “General Services Administration”, including the document reference number, TSP name, bill number(s), taxpayer identification number and standard carrier alpha code, then mailed to the appropriate address listed on the Accounts and Collections web page at <https://www.gsa.gov/transaudits>.

(b) If an ACH address is needed, visit <https://www.gsa.gov/transaudits> (Accounts and Collections web page) or contact the GSA Transportation Audits Division via email at: audits.collections@gsa.gov.

■ 37. Revise § 102–118.645 to read as follows:

§ 102–118.645 Can a TSP file a claim on collection actions?

Yes, a TSP may file a claim involving collection actions resulting from the transportation audit performed by the GSA directly with the GSA Transportation Audits Division. Any claims submitted to GSA will be subject to 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 Transportation Audits Division for forwarding to the responsible agency or for direct settlement by the GSA Transportation Audits Division. Submit claims using Transportation Audits Management System (TAMS) at <https://>

tams.gsa.gov or via email to protests@gsa.gov.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–117

[FMR Case 2024–03; Docket No. GSA–FMR–2024–0015; Sequence No. 1]

Federal Management Regulation; Updating Transportation Management, With Diversity, Equity, Inclusion, and Accessibility Language

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The United States General Services Administration (GSA) is issuing a final rule amending the Federal Management Regulation (FMR). This amendment introduces changes specific to Transportation Management. Following a comprehensive review, GSA decided to eliminate the use of gendered pronouns in this FMR part. The modifications aim to ensure the language aligns with the principles of inclusivity, particularly concerning gender, and to further incorporate language that supports diversity, equity, inclusivity, and accessibility. These changes are grammatical and technical in nature and will not result in additional costs or related policy changes for agencies.

DATES: This final rule is effective on November 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Siegel, Policy Analyst, at 202–702–0840 or gsa-ogp-transportationpolicy@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite “FMR Case 2024–03”.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order (E.O.) 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, dated January 20, 2021, establishes a policy “to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII and other laws that prohibit discrimination on the basis of gender identity or sexual orientation.”

The Federal Government must be a model for diversity, equity, inclusion,