DECISION

THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-210659 **DATE:** September 30, 1985

MATTER OF: Lieutenant Colonel John W. Larkin III, USAF

DIGEST: Air Force Regulation 75-25, establishing a 10 percent packing allowance for household goods shipped by the direct procurement method, is valid even though subparagraph M8002-3a, 1 JTR, prescribes a 20 percent packing allowance for household goods shipped by container. The 20 percent packing allowance applies when the weight of empty shipping boxes excludes packing materials. It does not apply when the weight of the shipping boxes or transporters includes the weight of materials necessary for preparing the goods for shipment. In that case the 10 percent allowance prescribed by the Air Force is appropriate. The 10 percent allowance is applicable in the present case because, in the absence of proof to the contrary, it is assumed that the tare weight prescribed by regulation to include packing materials was used.

The claimant has asked for reconsideration of our decision Lieutenant Colonel John W. Larkin III, USAF, B-210659, September 5, 1984, regarding the packing allowance applicable to the shipment of his household goods from Tinker Air Force Base, Oklahoma, to Bangkok, Thailand, effective April 1980. The Air Force applied the 10 percent packing allowance prescribed in their regulations. Colonel Larkin argues that the 20 percent packing allowance shown in paragraph M8002-3a, Volume 1, Joint Travel Regulations (1 JTR), should be applied. Since Colonel Larkin has not provided evidence to establish that the facts which were relied upon in the decision were incorrect or that the application of the lower allowance was contrary to controlling regulations, our decision of September 5, 1984, is affirmed.

Background

Ascertaining the correct packing allowance is critical in Colonel Larkin's case because the total weight of the household goods shipped plus the weight of goods stored at Government expense exceeded his total weight allowance. As a

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result of the excess weight, he paid part of the cost for nontemporary storage of his household goods. He would have been required to pay less had the 20 percent packing allowance shown in paragraph M8002-3a, 1 JTR, been applied to his shipment rather than the 10 percent packing allowance established by the Secretary of the Air Force in Air Force Regulation (AFR) 75-25, July 9, 1976.

Colonel Larkin was entitled to ship or store 13,000 pounds of household goods incident to his transfer. 1 JTR para. M8003. This weight allowance is applied to the actual weight of the unpacked and uncrated goods and that actual weight, without packing materials, is to be used in determining whether the member has exceeded his weight allowance. 1 JTR para. M8002-1. The 20 percent packing allowance in paragraph M8002-3a applies when the actual weight of the unpacked and uncrated household goods is unknown and when the weight of the empty shipping boxes or transporters used to transport the shipment (tare weight) is subtracted from the gross weight of the shipment. The 20 percent allowance, to account for all the packing materials used in the shipping boxes, is subtracted from that result to approximate the actual weight of the goods. We held that since the weighing procedures used in connection with direct procurement method shipment, which was used in Colonel Larkin's case, required that some of the packing materials be included with the weight of the shipping boxes (tare weight) when that weight was subtracted from the gross weight of the shipment, it was not appropriate to apply the full 20 percent packing allowance. We therefore approved the 10 percent packing allowance which was applied by the Air Force. Colonel Larkin argues that packing materials were not included as part of the tare weight.

Inclusion of Packing Materials in the Tare Weight

Our decision of September 5, 1984, quoted Regulation 4500.34-R, which was applicable to the type of shipment involved. That regulation clearly required the inclusion of some packing materials with the weight of the empty shipping boxes to determine the tare weight. Since that regulation prescribes the overall procedures used in the Department of Defense for moving household goods, it was considered to be applicable to Colonel Larkin's shipment. The Military Standard 212 which Colonel Larkin refers to describes particular

packing methods and weighing procedures to be used in preparing direct procurement method shipments. Although not discussed in our decision, the methods and procedures described therein at the time of Colonel Larkin's shipment also included packing material with the weight of the empty shipping boxes in the tare weight the contractor was required to report to the Government. MIL-STD-212C, para. 3.11, pg. 5, June 1, 1970. The Air Force applied the 10 percent packing allowance because it had concluded that the weight of the household goods as recorded by the packing contractor was not based upon the gross weight of the shipment less the weight of the empty shipping boxes or transporters, but was based on the gross weight of the shipment less the weight of the shipping boxes or transporters and the weight of the packing materials required to prepare the goods for shipment. We explained that the 20 percent packing allowance did not govern Colonel Larkin's shipment because that allowance was not based on the weighing procedures used for Colonel Larkin's shipment. The Secretary's 10 percent packing allowance was approved because it was based on the weighing procedures that were then applicable.

Colonel Larkin attached the shipping company's records which show that the contractor's "tare" weight was the same as the "empty weight" of the container listed on another form. According to Colonel Larkin, this proves that the tare weight included no packing material.

These records, which were part of the file when we previously considered the claim, fail to prove Colonel Larkin's point since there is no indication that the term "empty weight" used on the contractor's form excludes packing materials. The term "empty weight" in this context is at best ambiguous. We do not view it as showing that the weights reported as the net weight of the household goods included no packing and bracing materials, contrary to the requirements of the regulations applicable to the packing and weighing of this type of shipment. Thus, since we have no direct information regarding the procedure used when Colonel Larkin's household goods were weighed, we must assume that the weights given were arrived at through the use of applicable weighing procedures.

The Air Force 10 Percent Packing Allowance

Colonel Larkin presented for our consideration a statement by the former Chief of the Air Force Entitlements

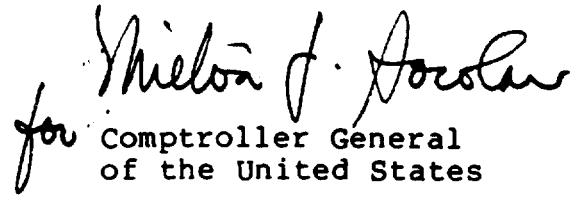
Division who was directly involved in recent deliberations of the Department of Defense regarding the appropriate packing allowance. This statement provides some background information concerning the development of military packing allowances, but appears to have no direct relevance to the issues here.

The statement also suggests that allowances are to be uniform among the services. We recognize that the allowances authorized military personnel for travel and transportation are to be coordinated so that, as far as possible, they are uniform for all the services. This procedure, however, does not prevent an individual service from prescribing additional regulations not incompatible with the service-wide regulations to cover special situations. The Air Force regulation in this case was considered valid because it did just that. It authorized an appropriate allowance for packing materials to be applied in a situation not covered by service-wide regulation.

In a letter of March 26, 1985, the Department of Defense concurred in the decision rendered in Colonel Larkin's case based on the circumstances involved and recommended that the other services apply a 10 percent allowance when packing and bracing materials are included as part of the tare weight to be subtracted from the gross weight of the shipment. That letter also indicates that all regulations prescribing weighing and packing procedures governing packing contractors for direct procurement method shipments have been clarified so that there will normally be no shipments where the weight of packing materials is included with weight of the empty container in determining the reported tare weight.

Conclusion

For the reasons stated, Colonel Larkin is not entitled to reimbursement for the charges he has paid incident to the nontemporary storage of the excess weight of his household effects as determined by the Air Force. Our decision of September 5, 1984, is affirmed.



for Comptroller General
of the United States