

B-187262-O.M.

Controller

Paul G. Dembling

General Counsel - Paul G. Dembling

JAN 25 1977

Released  
Subject card

Personal Property Damage Claim - [REDACTED]  
B-187262-O.M.

Reference is made to the memorandum of August 19, 1976, from Mr. Ralph, Assistant Controller, referring the subject claim to our Office for review. It appears from the record that [REDACTED], a Supervisory Auditor in the San Francisco Regional Office of the General Accounting Office (GAO), is making a claim under the Military Personnel and Civilian Employees' Claims Act of 1964 for damage to his automobile incurred in connection with a collision which occurred on July 19, 1976, while commuting from his residence in Concord, California, to an audit site at the Naval Air Station (NAS), Alameda, California. In conjunction with the Survey of Management Controls over Petroleum for Ground Vehicles, it was necessary for [REDACTED] to perform audit work at NAS, Alameda, for several days. He was authorized by [REDACTED], Audit Manager of the San Francisco Office, to commute directly from his home to the audit site and to use his private automobile for this purpose. While so commuting, [REDACTED] was forced to stop abruptly to avoid hitting another vehicle which had driven off the median and into his lane. This caused the driver of the car following [REDACTED] vehicle to lose control of his vehicle and a collision resulted. The right side of [REDACTED]'s vehicle was damaged in the estimated amount of \$1,415.83. We understand that the car which originally cut off [REDACTED] automobile left the scene before its license number could be taken. We further understand that [REDACTED] does not have collision insurance on the automobile.

The claim was submitted to our Office due to doubt as to whether or not such claim is properly payable under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. §§ 240-243 (Comp. IV, 1974). (1976)

Under section 241(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, the head of an agency or his designee may, pursuant to regulation, settle and pay a claim against the United States for not more than \$15,000 made by a civilian officer

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of employee for damage to, or loss of, personal property "incident to his service." Implementing regulations for the GAO are contained in Comptroller General's Order (CGO) No. 1.39. In accordance with paragraph 3a of CGO 1.39, the Director, Office of Administrative Planning and Services (now Management Services Division) has prepared instructions entitled "Guides and Tables for Computing Amounts Allowable to Eligible Claimants Under the Military Personnel and Civilian Employees' Claims Act of 1964," and paragraph 2c thereof defines the phrase "incident to the claimant's employment" for the purposes of 31 U.S.C. § 241(b)(1) to mean that " \* \* \* the loss occurred primarily as the result of the claimant's employment with the General Accounting Office."

In a recent claim, B-185513, March 24, 1976, submitted under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, for damages to a National Labor Relations Board (NLRB) employee's car incurred when her private automobile was struck by a hit-and-run driver while her vehicle was being used on official NLRB business, we stated:

"With respect to whether the claimed loss was incurred incident to service, a review of the legislative history of the Military Personnel and Civilian Employees' Claims Act of 1964 fails to reveal a specific reference to the types of claims contemplated by the legislation. B-169236, April 21, 1970. However, since the submission shows that the employee was using the vehicle for official business and was within the scope of her employment when the vehicle was damaged, the loss suffered might properly be considered as a loss incurred incident to service."

Since [redacted] was directed to commute directly to the audit site and his use of his private automobile for that purpose was authorized by the Regional Manager, and because the Regional Manager has stated that use of [redacted] automobile was "advantageous to the Government," we believe that the damage to the vehicle "occurred primarily as the result of the claimant's employment with the General Accounting Office" as required by paragraph 2c of the "Guides and Tables for Computing Amounts Allowable to Eligible Claimants Under the Military Personnel and Civilian Employees' Claims Act of 1964." Clearly, the

