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Monterey, California**



THESIS

**ANALYSIS OF THE COSTS FOR PROCESSING A CLAIM
AT THE NAVAL AIR SYSTEMS COMMAND**

by

Bobby J. Warfield

December 1998

Thesis Advisor:

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AIR SYSTEMS COMMAND**

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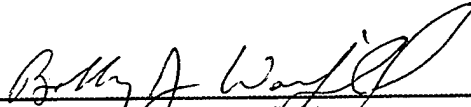
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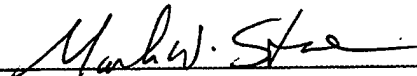
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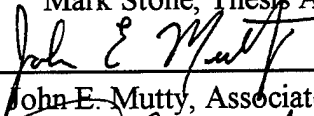
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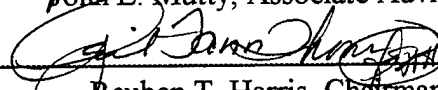
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ABSTRACT

This thesis examines the claims resolution process and procedures and determines the costs associated with the processing of a claim at the Naval Air Systems Command (NAVAIR). With these costs identified, once a contractor entitlement has been determined, it will be possible to perform a cost-benefit analysis to determine if it would be cheaper to settle a claim up front or to continue with the claims resolution process. Data were obtained from surveys, telephone conversations, and literature. The research also identified patterns in the amount of time it takes to settle a claim. The most significant finding was that 92 percent of the total claim cases settled since 1996 were settled for less than the contractor's requested amount including the cost of processing the claim. Therefore, it makes good business sense for NAVAIR to continue with their claims resolution process. The findings also indicate that 57 percent of the total active NAVAIR claims that are either in litigation or not in litigation are associated with lapsed appropriations. In that these claims must be payed with current year funding, any improvements to the claims process will lessen the time to final resolution will have a positive effect on current year program stability.

TABLE OF CONTENTS

I. INTRODUCTION.....	1
A. GENERAL INFORMATION.....	1
B. PURPOSE.....	2
C. RESEARCH QUESTIONS.....	2
1. Primary Research Question.....	2
2. Secondary Research Questions.....	2
D. SCOPE.....	3
E. METHODOLOGY.....	3
F. DEFINITIONS.....	4
G. ACRONYMS.....	4
H. ORGANIZATION.....	4
II. BACKGROUND.....	7
A. INTRODUCTION.....	7
B. TYPES OF CLAIMS.....	7
1. Claim Defined.....	7
2. Constructive Change Claims.....	8
3. Delay Claims.....	10
4. Disruption Claims.....	11
5. Acceleration Claims.....	11
C. EVOLUTION OF A CLAIM.....	12

D. REQUIREMENTS AND PROCEDURES OF A CLAIM UNDER THE DISPUTES CLAUSE.....	13
E. NAVAL AIR SYSTEMS COMMAND'S CLAIMS RESOLUTION PROCESS AND PROCEDURES.....	16
F. SUMMARY.....	21
III. METHODOLOGY AND DATA PRESENTATION	23
A. INTRODUCTION	23
B. METHODOLOGY FOR DATA COLLECTION.....	23
C. PRESENTATION OF DATA.....	24
1. NAVAIR Claims not in Litigation	24
2. NAVAIR Claims in Litigation	30
D. SUMMARY.....	36
IV. DATA ANALYSIS.....	37
A. INTRODUCTION	37
B. COST FOR PROCESSING A CLAIM	37
C. CLAIMS WITH LAPSED APPROPRIATIONS.....	40
D. SUMMARY.....	49
V. CONCLUSIONS AND RECOMMENDATIONS	51
A. INTRODUCTION	51
B. RESEARCH QUESTIONS	51
1. Primary Research Question	51
2. Secondary Research Questions.....	51
C. CONCLUSIONS.....	53

D. RECOMMENDATIONS.....	54
E. AREAS FOR FURTHER RESEARCH.....	54
APPENDIX A. DEFINITIONS.....	55
APPENDIX B. ACRONYMS.....	57
APPENDIX C. CHANGES CLAUSE.....	59
APPENDIX D. DISPUTES CLAUSE.....	61
APPENDIX E. ROLES AND RESPONSIBILITIES OF IPT MEMBERS FOR CLAIMS.....	65
APPENDIX F. SURVEY CONCERNING THE COSTS TO NAVAIR FOR PROCESSING, SETTling, AND EXECUTING CLAIMS/REAS NOT IN LITIGATION.....	69
APPENDIX G. LOCALITY RATES OF PAY FOR WASHINGTON – BALTIMORE AREAS.....	71
APPENDIX H. LOCALITY RATES OF PAY FOR ORLANDO, FL.....	73
APPENDIX I. LOCALITY RATES OF PAY FOR THE REST OF THE UNITED STATES.....	75
LIST OF REFERENCES.....	77
BIBLIOGRAPHY.....	79
INITIAL DISTRIBUTION LIST.....	81

I. INTRODUCTION

A. GENERAL INFORMATION

Since the demise of the Soviet Union and the end of the Cold War, the Department of Defense's (DOD) budget has been decreasing. From the mid-1980s to the mid-1990s, the DOD's budget has dropped from approximately 446 billion dollars to 265 billion dollars in constant dollars, which is an overall 40 percent drop. [Ref. 20: p. 1] The DOD's procurement funds have decreased as well.

In fiscal year 1997, the DOD had over seven million contract actions, with a dollar value of approximately 127 billion dollars. These figures equate to 58 and 67 percent of the total Federal Government contract actions and contract dollars, respectively. [Ref. 21: p. 2]

Due to the DOD's large volume of contract actions, disputes between the Government and contractor occasionally arise. The importance of settling claims in an expeditious manner cannot be overstated. If a claim exists, the closeout of the contract cannot occur until the claim has been settled. In an era of decreasing defense budgets, DOD cannot afford for an appropriation to lapse before the settlement of a claim otherwise, funding appropriated for current year programs must be used. Also, the DOD is interested in finding more efficiencies in order to achieve cost savings in our internal operations. One way to increase cost savings in the claims resolution process is to perform a cost-benefit analysis on the claim amount to determine if it would be cheaper to settle a claim up front

or to continue with the claims resolution process. The Claims Division of the Naval Air Systems Command (NAVAIR) does not have a process in place to identify the cost of processing a claim or request for equitable adjustment. This research attempts to identify the costs associated with the processing of a claim at NAVAIR.

B. PURPOSE

The primary objective of this research is to examine the claims resolution process and procedures at NAVAIR and to determine the cost to NAVAIR for processing a claim through this process. Associated with the claim processing costs will be the identification of a claim amount dollar threshold which will assist in determining if it makes good business sense to continue with the claims resolution process or to settle a claim up front. The secondary objective of this study is to determine the cost to the U.S. Navy to process a claim that goes to litigation.

C. RESEARCH QUESTIONS

1. Primary Research Question

What does it cost NAVAIR to process a claim that does not go to litigation?

2. Secondary Research Questions

a. What is the purpose of claims?

b. What are the claims resolution process and procedures at NAVAIR?

c. What are the cost elements associated with the processing of a claim at NAVAIR that does not go to litigation?

- d. What does it cost the U.S. Navy to process a claim that goes to litigation?
- e. Given the costs of processing a claim, does it make good business sense to go through the entire process regardless of the dollar amount of the claim?

D. SCOPE

The major thrust of this thesis is to analyze the data that were obtained from the surveys in order to identify the costs associated with NAVAIR's claims resolution process. The identification of these costs will assist in the cost-benefit analysis to determine if it will be cheaper to settle a claim up front or to continue with the claims resolution process. Additionally, it will determine if the data indicate a trend for settling claims with current fiscal year funds instead of those funds that were originally obtained for the contract.

E. METHODOLOGY

The methods used to obtain data for this thesis included: surveys, telephone interviews, and a literature review. Surveys were distributed to the various employees at NAVAIR and NAVAIR's remote sites in order to determine the cost to NAVAIR for processing a claim that is not in litigation. Telephone interviews were conducted for the gathering of any additional data required for the research. A detailed literature review was also conducted to include: NAVAIR reports and instructions, regulations, manuals, books, internet, and the Defense Acquisition Deskbook. The above methodology is explained in more detail in Chapter III under the section of methodology for data collection.

F. DEFINITIONS

A listing of the selected terminology that is used throughout this thesis is provided in Appendix A.

G. ACRONYMS

A listing of the acronyms that is used throughout this thesis is provided in Appendix B.

H. ORGANIZATION

This thesis is arranged into five chapters. This chapter presents an introduction and the research questions.

Chapter II introduces the various types of claims where contractor entitlement has been established. In addition, this chapter explains in detail how a claim comes into existence. It also describes the requirements and processes of a claim under the Disputes Clause. Finally, it explains the Naval Air Systems Command's resolution process and procedures.

Chapter III explains in detail the methodology used for obtaining the data for this thesis.

Chapter IV derives the cost for processing a claim based upon a dollar threshold of the contractor's original claim amount. Then, it identifies and analyzes trends regarding claim settlement taking into account the costs for processing a claim. Finally, this chapter provides an in-depth analysis of NAVAIR claims that are either in litigation or not in litigation with lapsed appropriations.

Chapter V presents the conclusions and recommendations of this thesis.

II. BACKGROUND

A. INTRODUCTION

This chapter is divided into five sections. The first section defines a claim. Additionally, it provides an introduction to the various types of claims where contractor entitlement has been established. The second section explains in detail how a claim comes into existence. The third section describes the requirements and processes of a claim under the Disputes Clause, which reflects the requirements of the Contract Disputes Act of 1978. This Act establishes procedures and requirements for asserting and resolving claims subject to the Act. The fourth section explains the Naval Air Systems Command's claims resolution process and procedures. The final section gives a brief summary of the chapter.

B. TYPES OF CLAIMS

The following section provides an introduction to the various types of claims for which contractor entitlement has been established.

1. Claim Defined

As previously defined in Chapter I, the Federal Acquisition Regulation (FAR) defines a claim as:

A written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. [Ref. 1: Sec. 33.201]

A claim can either be submitted by the contractor against the Government, or by the Government against the contractor. This research focuses on contractor

claims against the Government. According to the Naval Sea Systems Command (NAVSEA), claims against the Government can be of four types. [Ref. 4: p. 2] The categories are constructive change, delay, disruption, and acceleration. Although the latter three categories could be considered examples of constructive changes, this thesis separates claims against the Government into the four types in order to understand the differences in the basic causes and outcomes of claims. The causes of these various claims are due to actions and situations which may occur by the Government. Contractor entitlement has been established for these types of claims. [Ref. 4: p. 2]

2. Constructive Change Claims

Contracting officers are the only Government personnel who are authorized to enter into contractual commitments, contracts, or changes to contracts. A constructive change to a contract results when contracting officers or specifically authorized Government representatives take action that causes the contractor to perform additional or different work from that stated in the original contract. Some examples of conditions giving rise to constructive changes are:

- (1) furnishing the contractor with a defective Government specification,
- (2) requiring adherence to delivery schedules when a contractor is entitled to a time extension,
- (3) denying a contractor the opportunity to employ a permissible method or sequence of work,
- (4) erroneously requiring a contractor to perform contrary to its correct interpretation of the contract requirements,

- (5) unwarranted rejection of supplies following inspection,
- (6) changes in inspection requirements, and
- (7) causing or requiring accelerated performance by a contractor. [Ref. 2: p. 233]

The legal basis for a constructive change claim is in the Changes Clause of contracts. The Changes Clause serves four major purposes:

- (1) To provide operating flexibility by giving the Government the unilateral right to order changes in the work to accommodate advances in technology and changes in the Government's needs and requirements.

- (2) To provide the contractor a means of proposing changes to the work, thereby facilitating more efficient performance and improving the quality of contract end products.

- (3) To furnish procurement authority to the contracting officer to order additional work within the "general scope" of the contract without using the procedures required for "new procurement" or utilizing new funds.

- (4) To provide the legal means by which the contractor may process claims through the administrative disputes process. [Ref. 3: pp. 382 thru 383]

A copy of the Changes Clause is provided in Appendix C. The Changes Clause allows Contracting Officers to make formal changes to contracts. The Contracting Officer has the authority to make unilateral changes in contracts as long as the changes are within the scope of the contract. Examples of changes that are within the scope of the contract include:

- (1) drawings, designs or specifications,
- (2) method of shipment or packing,
- (3) place of inspection, delivery or acceptance,
- (4) description of services to be performed, and

(5) place of performance. [Ref. 2: pp. 228 thru 229]

There is nothing in the Changes Clause that excuses the contractor from proceeding with the contract as changed. Therefore, the contractor accepts and performs the change. For those Government personnel actions that cause the contractor to perform additional or different work from that specified in the original contract, the contractor is entitled to an equitable adjustment in the contract price, the delivery schedule, or both. [Ref. 4: p. 2]

3. Delay Claims

A delay to a contract results when contractors fail to deliver the supplies or to perform the services within the time specified in the contract. The Default Clause allows the contractor to be compensated for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Some examples of excusable delays, which are beyond the control of the contractor, are:

- (1) acts of God; such as fires, floods, epidemics, or unusually severe weather,
- (2) acts of the public enemy,
- (3) acts of the Government in either its sovereign or contractual capacity,
- (4) quarantine restrictions,
- (5) strikes, and
- (6) freight embargoes. [Ref. 1: Sec. 52.249-8]

When the contractor is responsible for the delay, the contractor is not entitled to an equitable adjustment in either the delivery schedule or the contract price.

However, if the Government is responsible for the delay or accelerates performance, the contractor may be entitled to an equitable adjustment in either the schedule or the contract price. [Ref. 4: pp. 2 thru 3]

4. Disruption Claims

A disruption occurs when the contractor performs in accordance with the requirements in the original contract but has additional work due to Government caused actions or situations. Some examples that may cause a disruption to occur include defective Government-furnished property (GFP), inefficient Government inspection, and unavailable Government test facilities. [Ref. 5: p. 23] Contingent upon the contractor's amount and allocation of resources, a disruption can have a major impact on work throughout a contractor's plant. Therefore, the contractor may be entitled to an equitable adjustment in either the contract price, the delivery schedule, or both. [Ref. 4: p. 3]

5. Acceleration Claims

Acceleration claims result when the Government requires the contractor to shorten the original contract delivery schedule. If the Government introduces additional work to the contractor through formal or constructive change or unnecessary rejection and rework and the original delivery schedule remains the same, the contractor can claim that the schedule has been accelerated. Hence, the contractor is entitled to an equitable adjustment in an increase in contract price or in schedule. [Ref. 4: pp. 3 thru 4]

C. EVOLUTION OF A CLAIM

Whenever the Government contracts out for goods and services, disputes between the Government and contractors may arise. A dispute is defined as a conflict of claims or rights and/or disagreements concerning the position, legal rights, claims or demands between contracting parties. [Ref. 6: p.173] As stated in the previous section, Government actions that can cause disputes to arise are constructive changes, delays, disruptions, and accelerations. If the Government's actions have an impact on the contractor's performance of the contract, the contractor can submit a request for equitable adjustment in the contract price, the delivery schedule, or both. Whatever the issue in dispute, every attempt possible should be made by the Government and contractor to reach a mutually satisfactory agreement through informal discussions and negotiations.

In the past, Contracting Officers and contractors have relied on negotiations and litigation to resolve disputes arising under Government contracts. Today, however, Contracting Officers and contractors have implemented the concept of alternative dispute resolution (ADR) to resolve their differences. ADR is a means of settling disputes in a faster and less expensive way than traditional administrative and judicial forums. Some examples of ADR techniques are information exchange or fact finding, partnering, high-level negotiation, mediation, minitrials, summary disposition, and arbitration. [Ref. 7: p. 1] The FAR states that it is the Government's policy to attempt a resolution of all

contractual issues in controversy by both parties at the Contracting Officer's level. [Ref. 1: Sec. 33.204] Also, the Government strongly encourages using ADR as the primary means by which disputes are resolved. ADR techniques have been used by the Navy since 1982, and these techniques have been able to resolve contractual issues of dispute in almost 99 percent of the cases. [Ref. 7: p. 4] However, disputes are not always resolved through mutual agreement.

If the Government and contractor cannot mutually agree on a settlement in contract price or delivery schedule, the Contracting Officer has the authority to unilaterally decide the settlement amount to the contractor. This decision is called the Contracting Officer's final determination (COFD). If the contractor is satisfied with the Contracting Officer's decision, the dispute has been resolved. If this occurs it would seem that they have mutually agreed on a settlement. However, if the contractor is not satisfied with the Contracting Officer's decision, the contractor can then submit a written claim for the compensation amount, or the adjustment or interpretation of contract terms relating to this contract in dispute. This written request by the contractor for compensation becomes a legal claim under the Disputes Clause. A copy of the Disputes Clause is provided in Appendix D. [Ref. 8: p. 33]

D. REQUIREMENTS AND PROCESSES OF A CLAIM UNDER THE DISPUTES CLAUSE

The Disputes Clause requires that all contractor claims either monetary or non-monetary in nature be submitted in writing to the Contracting Officer. Contractor claims against the Government must be submitted within six years

from the date the right to payment accrued. The six year limit does not apply to contracts awarded prior to October, 1, 1995 or for contractor claims against the Government involving fraud. Additionally, the Contracting Officer does not have the authority for the settlement, compromise, payment, or adjustment of any claim involving fraud. [Ref. 1: Sec. 33.210]

The FAR incorporates the Contract Disputes Act (CDA) through the Disputes Clause, which is included in all Government contracts. The CDA requires that all claims submitted by contractors be certified by the contractor if the dollar amount sought by the contractor exceeds \$100,000. Also, all claims submitted under alternative dispute resolutions must be certified regardless of the dollar amount. The certification states:

I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor. [Ref. 1: Sec. 52.233-1]

Contracting Officers are required to render a decision on all claims against the Government. For contractor claims that are less than \$100,000, Contracting Officers can take up to 60 days from the date of receipt of the written claim to render a decision. For contractor claims over \$100,000, Contracting Officers can still take up to 60 days to render a decision. However, if the Contracting Officer cannot make a decision within the 60 days, the Contracting Officer will inform the contractor of the anticipated date of his decision. The Contracting Officer's decision is said to be final unless the contractor appeals or files a suit. [Ref. 1:

Sec. 52.233-1] The CDA allows contractors to appeal a COFD. Contractors can appeal the Contracting Officer's final determination to either the Board of Contract Appeals (BCA) or the Claims Court. If the contractor decides to appeal the COFD to the Board of Contract Appeals, the contractor has 90 days from the date the contractor received the Contracting Officer's final decision to appeal the decision. [Ref. 1: Sec. 33.211] However, if the contractor decides to appeal the COFD to the Claims Court, the contractor can take 12 months from the date the contractor received the Contracting Officer's final decision to file suit. The FAR requires that all contracting officer's final decisions must contain the following statement:

This is the final decision of the Contracting Officer. You may appeal this decision to the agency board of contract appeals. If you decide to appeal, you must, within 90 days from the date you receive this decision, mail or otherwise furnish written notice to the agency board of contract appeals and provide a copy to the Contracting Officer from whose decision this appeal is taken. The notice shall indicate that an appeal is intended, reference this decision, and identify the contract by number. With regard to appeals to the agency board of contract appeals, you may, solely at your election, proceed under the board's small claim procedure for claims of \$50,000 or less or its accelerated procedure for claims of \$100,000 or less. Instead of appealing to the agency board of contract appeals, you may bring an action directly in the United States Court of Federal Claims within 12 months of the date you receive this decision. [Ref. 1: Sec. 33.211]

If the contractor is unsatisfied with the BCA's or Claims Court's decision, the contractor can then appeal to the Court of Appeals for the Federal Circuit (CAFC) and eventually to the U.S. Supreme Court. [Ref. 9: p. 5]

For contractors' claims on any amount found due and unpaid, the Government pays interest from the date that: (1) the Contracting Officer

received the properly certified claim; or (2) the payment otherwise would be due, if that date is later, until the date of payment. The simple interest rate for claims is the rate set by the Secretary of the Treasury. On claims with a defective certification, interest must be paid retroactively either from the date that the Contracting Officer initially received the claim or October 29, 1992, whichever is later. [Ref. 1: Sec. 33.208]

E. NAVAL AIR SYSTEMS COMMAND'S CLAIMS RESOLUTION PROCESS AND PROCEDURES

This section explains the Naval Air Systems Command's (NAVAIR) policy and procedures for the processing and reporting of claims and requests for equitable adjustments. Undisputed, routine requests for payment are not considered claims. However, NAVAIR's policy is to treat all requests for equitable adjustments as claims. The individuals responsible for NAVAIR's claims resolution process and procedures are the Naval Aviation Systems Team (TEAM). The TEAM consists of all personnel at NAVAIR. The TEAM's objective is to minimize the number of claims and disputed requests for equitable adjustments against the Navy and to resolve all claims expeditiously. NAVAIR's approach for the prompt resolution of claims is through the usage of Integrated Product Teams (IPTs). The individuals that make up the IPT membership are the IPT leader, contracting officer, program manager, technical experts, counsel, auditor, litigation team, and trial attorney. A copy of the roles and responsibilities of NAVAIR's individual IPT members is provided in Appendix E.

Figure 2.1 is a flowchart of NAVAIR's process for claims analysis which includes all significant events and the average number of days it takes for the completion of each event. NAVAIR's claims resolution process is a very long and drawn out process as can be seen in Figure 2.1. It can take up to 372 days for a COFD or 615 days for a negotiated settlement and over two years for a claim settlement that goes to litigation.

CLAIMS RESOLUTION PROCESS AND PROCEDURES

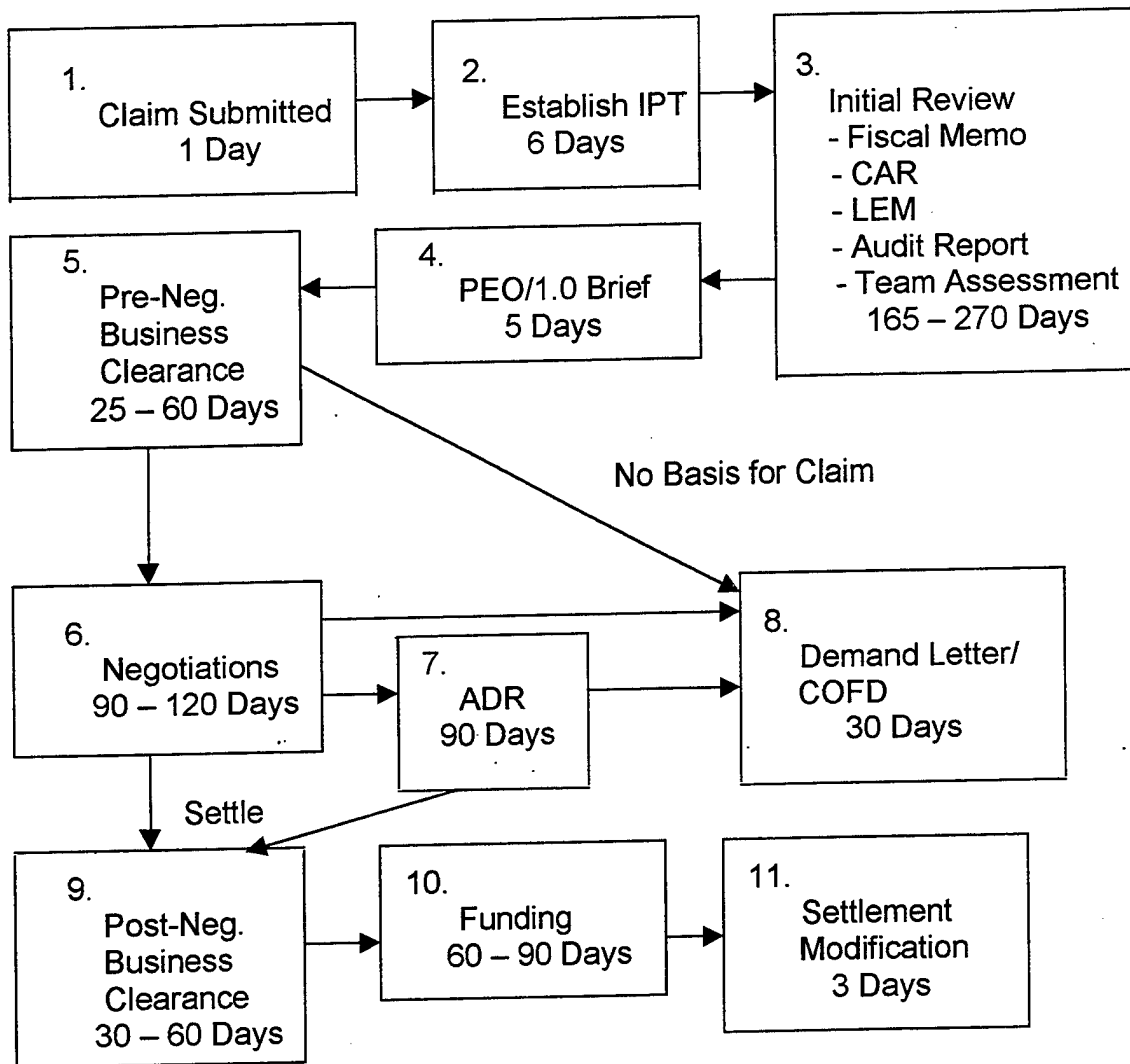


Figure 2.1: Claims Resolution Process and Procedures
 Source: Ref. 10: enclosure (3)

The individual tasks that take place at each event in Figure 2.1 are explained briefly below.

(1) The contractor submits a claim to the Contracting Officer. This process should take only a day.

(2) Upon the receipt of a claim, the program manager will establish an IPT. The IPT will consist of the individuals listed previously. This process should take approximately six days.

(3) The IPT does an initial review of the claim to determine if the claim is complete. If the claim is not complete or properly certified, the Contracting Officer has until 60 days following receipt of the claim to notify the contractor of this matter. If the claim is complete and properly certified, then the next step is to determine entitlement to the contractor. Also, in this process the IPT attorney will conduct an initial review of the legal theories of the claim. In addition, an analysis of the claim is done to determine the type of appropriation and fiscal year funds that must be used for settlement. In this initial review process there are several reports generated. These reports are the fiscal memorandum, claim analysis report (CAR), legal entitlement memorandum (LEM), and audit report. Once these reports are completed the IPT will review and discuss the documents with the Contracting Officer on whether to proceed with negotiation, pursue ADR, or issue a COFD. The IPT's recommendation will be formalized in a written memorandum called a team assessment. The Contracting Officer makes the ultimate decision. This initial review process can take between 165 to 270 days.

(4) NAVAIR requires that the IPT brief the Program Executive Officer (PEO) or AIR 1.0 on their recommendations concerning all claims in excess of ten million dollars. This process usually takes five days.

(5) The Contracting Officer will prepare a pre-negotiation business

clearance, which gives the Navy's position regarding the different claims and potential claims that are the subject of this business clearance and any final contract modification. The estimated amount of time it takes to prepare a pre-negotiation business clearance is 25 to 60 days.

(6) The actual negotiations begin. Negotiations can take from 90 to 120 days.

(7) If negotiations should fail, ADR should be considered. ADRs can take up to 90 days.

(8) The Contracting Officer will issue a COFD if there is not a basis for a claim or negotiations or ADRs do not result in a settlement. A COFD can take 30 days.

(9) The Contracting Officer will prepare a post-negotiation business clearance shortly after negotiations or ADRs have been completed explaining the terms and conditions associated with the settlement. The post-negotiation business clearance can take 30 to 60 days to prepare.

(10) The Department of Defense guidance on expired appropriations generally provide for charging within-scope claim settlements to available and appropriate expired appropriations. However, out-of-scope claim settlements or within-scope settlements where the appropriation lapses require current year appropriations.

(11) The settlement modification can take three days. [Ref. 10: enclosure (3)]

F. SUMMARY

Occasionally, when the Government contracts out for goods and services, disputes between the Government and contractors will arise. The Government actions which cause disputes to arise are constructive changes, delays, disruptions, and accelerations. Disputes should be settled at the Contracting Officer's level either through informal discussions or negotiations. However, all disputes are not resolved in this manner. Hence, Contracting Officers have the authority to unilaterally decide the settlement amount to contractors. If the contractor is not satisfied with the Contracting Officer's proposed settlement amount, the contractor has the option to appeal the Contracting Officer's final decision to either the Boards of Contract Appeals or the Claims Court. Whichever method is employed for claim settlement, negotiation or litigation, the claims resolution process can be time consuming and costly.

III. METHODOLOGY AND DATA PRESENTATION

A. INTRODUCTION

This chapter is divided into three sections. The first section explains in detail the methodology used for obtaining the data for this thesis. The second section presents the data in two categories: NAVAIR claims not in litigation and NAVAIR claims in litigation. The final section gives a brief summary of the chapter.

B. METHODOLOGY FOR DATA COLLECTION

The three methods used to obtain data for this thesis include: surveys, telephone interviews, and a review of NAVAIR's claims that have been settled either through negotiations or litigation.

The survey was distributed to the various employees of NAVAIR, the Naval Air Warfare Centers (NAWCs), and NAVAIR field activities who were responsible for specific claims. This survey was designed to obtain data in order to determine the various cost elements and the cost to NAVAIR for processing a claim/REA that is not in litigation, that is, a claim that has not been appealed to the Board of Contract Appeals or the Claims Court. A copy of the survey is provided in Appendix F.

Telephone interviews were conducted for several reasons. The primary reason was for further clarification or for obtaining additional information needed from the respondents to the surveys that were originally distributed. Telephone interviews were also helpful for the gathering of any additional data required in the calculation for the determination of the cost for processing a claim/REA at

NAVAIR. The final reason for telephone interviews was to obtain data to determine the various cost elements and the costs to the U.S. Navy to process a NAVAIR claim that goes to litigation.

Finally, a thorough analysis of reports provided by NAVAIR of their claims that were settled either through negotiations or in litigation was conducted.

C. PRESENTATION OF DATA

This section is divided into two parts. The first part explains in detail the process that was used in determining the costs for the processing of claims/REAs at NAVAIR. The second part attempts to determine the costs to the U.S. Navy to process a NAVAIR claim that is in litigation.

1. NAVAIR Claims not in Litigation

Approximately twenty survey forms were distributed at NAVAIR. Eighteen forms were returned with responses, which yielded a ninety percent return rate. The return rate and the reliability of the information provided in the survey were high. This was expected primarily due to the assignment of two NAVAIR employees from the Claims Division for the specific tasks of assisting in the writing of the survey, collecting the surveys that were distributed, and for checking the validity of each survey. The individual claims/REAs that are not currently in litigation and the dollar value of these individual claims that were surveyed are presented in Table 3.1.

Active NAVAIR Claims not in Litigation as of September 1998

Claim/REA Serial Number	Date of Claim	Dollar Amount of Contract	Dollar Amount of Claim/REA
97-2HQ	4-15-95	\$ 853,000,000	\$ 1,353,301
97-4HQ	5-02-95	38,000,000	817,255
97-5HQ	6-07-96	38,000,000	10,139,378
97-6HQ	9-11-96	38,000,000	3,012,280
97-24HQ	1-22-97	8,108,060	4,296,000
97-26HQ	7-16-97	3,449,858	399,978
98-1HQ	6-17-97	186,000,000	4,679,467
98-2HQ	5-15-98	6,636,000	813,311
97-6AD	5-14-96	3,947,365	1,725,000
97-10AD	10-27-97	116,000	118,936
97-14AD	1-07-97	70,540,480	1,448,799
98-2AD	4-27-98	8,195,783	1,738,200
97-2WD	2-04-94	93,453,458	45,790
97-3WD	2-04-94	93,453,458	18,798
97-7WD	2-07-95	401,939	546,050
98-2WD	1-22-98	2,900,000	249,224
97-12TSD	8-14-96	43,388,000	11,948,322
98-17TSD	6-18-98	16,500,984	348,650

Table 3.1: NAVAIR Claims not in Litigation

Source: Developed by researcher

The estimated cost to NAVAIR for the processing of the individual claims/REAs that were surveyed is presented in Table 3.2. Under the heading of negotiated settlement in Table 3.2, the dollar amount was not provided in most cases because either the anticipated negotiated settlement was unknown at the time of the survey or the individual did not want to relinquish the anticipated amount.

**Comparison Between Dollar Amount of Claim/REA, Negotiated Settlement,
and Claim/REA Processing Cost**

Claim/REA Serial Number	Dollar Amount of Claim/REA	Negotiated Settlement	Claim/REA Processing Cost
97-2HQ	\$ 1,353,301	\$ 800,000	\$ 30,418
97-4HQ	817,255	385,000	120,113
97-5HQ	10,139,378	4,765,000	195,290
97-6HQ	3,012,280	1,415,000	146,325
97-24HQ	4,296,000	N/A	83,283
97-26HQ	399,978	0	86,856
98-1HQ	4,679,467	N/A	84,652
98-2HQ	813,311	N/A	19,091
97-6AD	1,725,000	N/A	27,628
97-10AD	118,936	N/A	1,245
97-14AD	1,448,799	1,112,918	150,153
98-2AD	1,738,200	N/A	1,559
97-2WD	45,790	21,580	1,254
97-3WD	18,798	18,352	1,254
97-7WD	546,050	N/A	12,541
98-2WD	249,224	N/A	4,522
97-12TSD	11,948,322	N/A	141,632
98-17TSD	348,650	N/A	632

**Table 3.2: Comparison Between Dollar Amount of Claim, Settlement,
and Claim Processing Cost**

Source: Developed by researcher

The cost elements associated with the processing of a claim/REA are labor, fringe benefits, travel, and other support costs; for example, technical expert fees. The majority of the costs come from labor, because the processing of a claim is labor intensive. The breakdown of how these costs were derived is explained below.

The survey required that the individuals responsible for completing the surveys list the personnel that had any involvement with the claim/REA. The

personnel working on a claim/REA were listed by their job title, grade level, the estimated amount of time that each individual worked on the claim per week and for how many weeks. Civil servant employee ranks are broken down into two parts: grade level and step. There are ten steps for each grade level. The survey did not supply information regarding the step of the person's grade level. In the computing of the labor costs, it was assumed that each employee was a step five. Their wages are also dependent on their location of employment. The locality hourly rates of pay that were used for the different areas of employment are provided in Appendixes G, H, and I. The U.S. Office of Personnel Management sets these rates.

The fringe benefit cost element is based on a percentage of the employee's wages. The fringe benefits include employee's insurance (health and life), medicare, retirement, and other benefits. Each NAWC or field activity of NAVAIR has a different acceleration rate for fringe benefits. An employee's annual and holiday leave wages are not included in the fringe acceleration rate, because these benefits are already incorporated in their regular wages. [Ref. 11: pp. 149 thru 170] In addition to NAVAIR headquarters, the following field activities participated in the survey: NAWC Weapons Division (WD) and NAWC Training System Division (TSD) located in China Lake, California and Orlando, Florida, respectively. The fringe acceleration rates are 19.42 percent for NAVAIR headquarters, 22.46 percent for NAWC-WD, and 23.70 percent for NAWC-TSD.

[Ref. 12] These rates were submitted as part of NAVAIR's fiscal year 1999 budget submission.

In determining the costs for the cost element of travel, the survey provided information for the following categories:

- (1) the number of trips,
- (2) the number of personnel traveling per trip,
- (3) the destination,
- (4) the number of days per trip,
- (5) the air fare expense, and
- (6) the daily per diem rate for that location.

The individual responsible for completing the survey provided the amount spent on the cost element of other support costs. Some examples of other support costs are expert witness fees and expenses in support of the contractor.

The data collected from the surveys listed nine different reasons that claims/REAs were submitted to NAVAIR. A single claim/REA can have multiple reasons. The nine different reasons and the frequency with which they appeared are presented in Table 3.3.

Claim/REA Basis

Basis	Frequency	Percent
Constructive Changes	8	27.6
Late or Defective GFP/GFE/GFI	4	13.8
Different Interpretations of Terms & Conditions	3	10.3
Defective or Impossible Specs/Drawings	2	6.9
Wrong Contract Type	1	3.5
Delay/Disruption/Stop Work	8	27.6
Termination for Default	1	3.5
Cost Overrun	1	3.5
Cost Sharing	1	3.5

Table 3.3: Claim/REA Basis

Source: Developed by researcher

A breakdown of the different appropriations and fiscal year in which the original contract was funded for the NAVAIR claims not in litigation is presented in Table 3.4.

Comparison Between Contract Appropriation, Fiscal Year, and Settlement Date

Claim/REA Serial Number	Contract Appropriation	Fiscal Year	Settlement Date
97-2HQ	APN	85	0998
97-4HQ	APN	89	0898
97-5HQ	APN	89	0898
97-6HQ	APN	89	0898
97-24HQ	APN	90	1198
97-26HQ	OPN	93	0998
98-1HQ	O&M,N	90/91	Ongoing
98-2HQ	O&M,N	90/91	Ongoing
97-6AD	APN	92	Ongoing
97-10AD	NWCF	94	Ongoing
97-14AD	APN	94/95	0398
98-2AD	RDT&E, NWCF	91	Ongoing
97-2WD	NWCF	90	0198
97-3WD	NWCF	90	0198
97-7WD	NWCF	94	Ongoing
98-2WD	WPN	95	Ongoing
97-12TSD	APN	92/93	Ongoing
98-17TSD	O&M,N	97	Ongoing

Table 3.4: Comparison Between Contract Appropriation, Fiscal Year, and Settlement Date

Source: Developed by researcher

2. NAVAIR Claims in Litigation

As stated in the previous chapter, if the contractor is not satisfied with the Contracting Officer's final decision the contractor can appeal to either the Armed Services Board of Contract Appeals (ASBCA) or the Claims Court. If the contractor appeals to the ASBCA, the ASBCA will then notify the Navy Litigation Office of the appeal. The Navy Litigation Office is a component of the Office of

the General Counsel (OGC). The OGC is the Chief Legal Officer of the Department of the Navy. The OGC provides legal advice, counsel, and guidance to the Secretary of the Navy and the other Civilian Executive Assistants and their staffs on any issue or matter-involving the Department of the Navy. The Navy Litigation Office will review all cases that were appealed to the ASBCA. For all NAVAIR claims in excess of \$400,000, the Navy Litigation Office will generally handle the claim at the ASBCA unless the claim is delegated back to NAVAIR for handling. For all NAVAIR claims below \$400,000, NAVAIR's attorneys handle the claim in litigation at the ASBCA. If the contractor appeals to the Claims Court, the Department of Justice will usually handle the case. [Ref. 13]

For the NAVAIR claims in litigation and defended by either the Navy Litigation Office or NAVAIR attorneys, the costs to the U.S. Navy to process a NAVAIR claim that goes to litigation are not tracked. According to numerous telephone conversations with the Navy Litigation Office, their office does not maintain records of the number of attorneys or the man-hours expended on the individual cases, which they are defending. [Ref. 14] The reason that these costs are not tracked is because the Navy Litigation Office does not charge any of their clients on a reimbursable basis for handling their cases. In other words the Navy Litigation Office is not a working capital fund activity. The Navy Litigation Office manpower budget is maintained by OGC. The Navy Litigation Office has its own budget for contract litigation support services; for example, expert witness fees.

This budget, approximately thirteen million dollars per year, was first funded in 1995. [Ref. 14]

Even though the labor costs are not tracked, the litigation cost activities can be broken down into three categories: pre-trial, trial, and post trial. Some of the pre-trial activities are:

- (1) representation,
- (2) assemble appeal file,
- (3) prepare/respond to written discovery requests,
- (4) prepare/respond to jurisdictional/dispositive motions,
- (5) litigation support,
- (6) expert witness support,
- (7) take and defend depositions and deposition transcripts, and
- (8) travel and shipping costs.

The trial activities include:

- (1) representation,
- (2) expert and witness fees,
- (3) litigation support, and
- (4) travel and shipping costs.

Finally the litigation cost activities of post trial are:

- (1) expert and witness fees,
- (2) hearing transcripts,
- (3) litigation support,

- (4) brief writing, and
- (5) travel and shipping costs.

As of May 1998, NAVAIR had 19 claim cases in litigation. The individual claims/REAs that are currently in litigation and the dollar value of these individual claims are presented in Table 3.5.

Active NAVAIR Claims in Litigation as of May 1998

Claim/REA Serial Number	Date of Claim	Dollar Amount of Claim/REA
97-1HQ	6-12-95	\$ 298,160,000
97-3HQ	2-26-91	48,000,000
97-9HQ	6-11-91	5,467,000
97-10HQ	7-03-96	2,849,000
97-13HQ	5-19-95	11,388,000
97-17HQ	7-03-96	2,388,000
97-20HQ	11-27-95	600,000
97-21HQ	12-17-94	4,100,000
97-1ACO	2-23-95	999,787
97-3ACO	0294	1,200,465
97-5AD	4-27-95	1,451,744
98-1AD	10-20-97	1,145,792
97-1WD	1-03-92	7,280,566
97-4WD	7-07-95	803,000
97-3TSD	7-18-96	11,827,615
97-7TSD	7-01-96	191,405
97-11TSD	4-27-88	1,007,708
97-13TSD	4-16-97	886,351
97-16TSD	4-01-97	3,848,464

Table 3.5: NAVAIR Claims in Litigation

Source: Developed by researcher

The dollar amount of claim/REA serial number 97-1WD listed in Table 3.5 includes seven claims with the same contractor. Of the 19 claim cases, 17 of them were appealed to the ASBCA. This equates to an 89 percent appeal rate. Two claim cases or 11 percent were appealed to the Claims Court. Figure 3.1 summarizes the above data. The ages of these claims range anywhere from six to 121 months. The average age of the claims in litigation is 27 months.

COURT FORUM CHOSEN FOR APPEALS

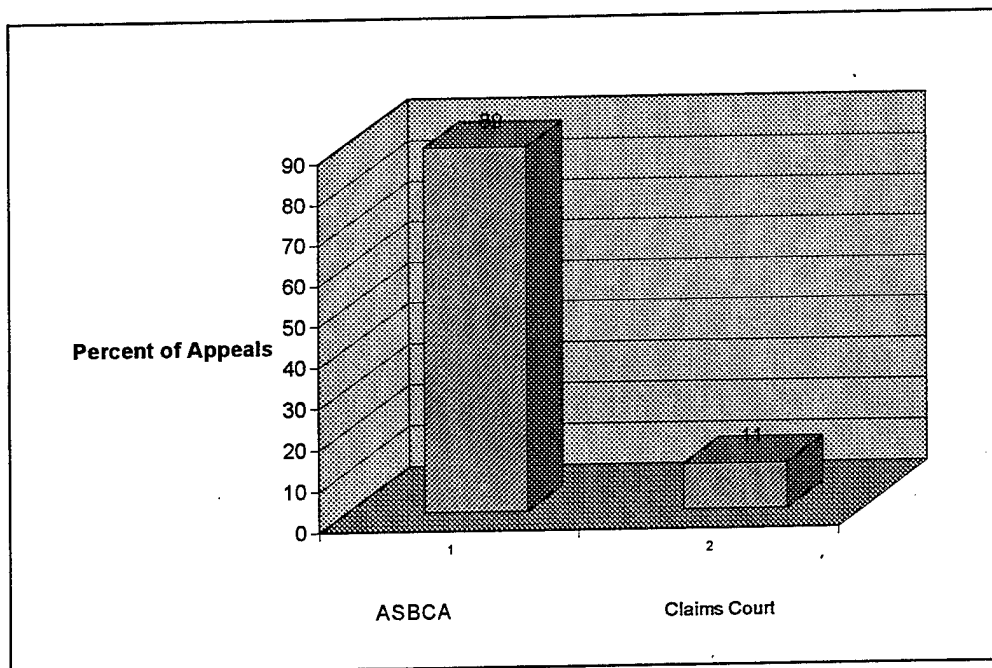


Figure 3.1: Court Forum
Source: Developed by researcher

The different reasons why and the frequency with which these 19 NAVAIR claims/REAs were submitted to litigation are presented in Table 3.6.

Claim/REA Basis

Basis	Frequency	Percent
Constructive Changes	10	29.4
Late or Defective GFP/GFE/GFI	5	14.7
Different Interpretations of Terms & Conditions	2	5.9
Defective or Impossible Specs/Drawings	2	5.9
Delay/Disruption/Stop Work	8	23.5
Cost Overrun	1	2.9
Business Base Adjustment	1	2.9
Proprietary Data Rights	2	5.9
Disposition and Close Out Costs	2	5.9
Progress Payment	1	2.9

Table 3.6: Claim/REA Basis

Source: Developed by researcher

A breakdown of the different appropriations and fiscal year in which the original contract was funded for the NAVAIR claims in litigation is presented in Table 3.7.

Contract Appropriation and Fiscal Year

Claim/REA Serial Number	Contract Appropriation	Contract Fiscal Year
97-1HQ	RDT&E	86-95
97-3HQ	APN	82/85/88
97-9HQ	NGR	88/89
97-10HQ	WPN	91
97-13HQ	OPN, SCN, FMS	87-89
97-17HQ	WPN	91
97-20HQ	APN	83
97-21HQ	RDT&E	90
97-1ACO	O&M,N	93
97-3ACO	O&M,N	92
97-5AD	APN	87
98-1AD	NWCF	93
97-1WD	NWCF	90
97-4WD	RDT&E	93
97-3TSD	APN	90
97-7TSD	FMS	93
97-11TSD	OPN	83/84/85
97-13TSD	OPN	87
97-16TSD	FMS	93

Table 3.7: Contract Appropriation and Fiscal Year
 Source: Developed by researcher

D. SUMMARY

This chapter described the methods used in collecting the data for this thesis. It explained in detail how the estimated cost is derived for the processing of a claim/REA that is not in litigation. This chapter also attempted to determine the estimated cost of a claim/REA in litigation. The next chapter analyzes the data that were presented.

IV. DATA ANALYSIS

A. INTRODUCTION

This chapter is divided into three sections. The first section derives the cost for processing a claim based upon a dollar threshold of the contractor's original claim amount. In addition, it identifies and analyzes trends regarding claim settlement taking into account the costs for processing a claim. The second section provides an in-depth analysis of NAVAIR claims that are either in litigation or not in litigation with lapsed appropriations. The last section gives a brief summary of the chapter.

B. COST FOR PROCESSING A CLAIM

The individual claims/REAs and the cost for processing those claims/REAs that are not in litigation are presented in Chapter III, Table 3.2. These individual claims/REAs were sorted according to the dollar amount of the claim. The range of dollar values is presented in Table 4.1.

DOLLAR RANGE OF ACTIVE CLAIMS

Dollar Range	Number of Claims	Percent of Claims
\$0 - \$200,000	3	16.7
\$200,001 - \$1,000,000	6	33.3
\$1,000,001 - \$2,000,000	4	22.2
\$2,000,001 - \$5,000,000	3	16.7
\$5,000,001 - \$12,000,000	2	11.1

Table 4.1: Dollar Range of Active Claims

Source: Developed by researcher

These dollar ranges were associated with claim processing costs, which are illustrated in Table 4.2. The claim processing cost for the different dollar ranges was derived by adding the processing costs and dividing by the number of claims in each dollar range for an average cost.

DOLLAR THRESHOLD FOR CLAIM PROCESSING COSTS

Dollar Range	Average Processing Cost
\$0 - \$200,000	\$ 1,251
\$200,001 - \$1,000,000	\$ 40,626
\$1,000,001 - \$2,000,000	\$ 52,440
\$2,000,001 - \$5,000,000	\$104,753
\$5,000,001 - \$12,000,000	\$168,461

Table 4.2: Dollar Threshold for Claim Processing Costs

Source: Developed by researcher.

Based on the information provided from the surveys, which can be seen in Chapter III, Table 3.2; eight of the 18 claim cases were settled for less than what the contractor originally requested. For the other 10 claim cases, the anticipated settlement amount was not provided because either the anticipated negotiated settlement was unknown at the time of the survey or the respondent did not want to relinquish the anticipated amount. Hence, for those eight claim cases that were settled, the negotiated settlement amount was less than the original claim amount for 100 percent of the claim cases. This is without taking into consideration the costs for processing a claim. If the processing cost is

added to the negotiated settlement of those eight claims, the total amount for seven of the eight claims is still less than the original amount requested by the contractor. Therefore, for 88 percent of the claim cases, the cost to the Government was less than what was originally requested. The negotiated settlement for the one claim was less than the original claim amount but when the processing cost was added, the total turned out to be more than the original claim amount requested. However, this amount was only \$808 more.

For NAVAIR claims that have been previously settled since 1996, 17 of the 17 claim cases were settled for less than the original claim amount. The distribution of the 17 settled claims was dependent upon the dollar amount of the claim is presented in Table 4.3. Now by adding the claim processing cost to the negotiated settlement amount, 16 of the 17 claim cases were still settled for less than the original claim amount.

DOLLAR RANGE OF SETTLED CLAIMS

Dollar Range	Number of Claims	Percent of Claims
\$0 - \$200,000	6	35.3
\$200,001 - \$1,000,000	6	35.3
\$1,000,001 - \$2,000,000	2	11.8
\$2,000,001 - \$5,000,000	2	11.8
\$5,000,001 - \$12,000,000	1	5.9

Table 4.3: Dollar Range of Settled Claims
Source: Developed by researcher

Once the costs associated with the processing of a claim were identified and contractor entitlement was determined, the researcher's assumption was that it would not be a good business decision to continue with NAVAIR's claims resolution process. It would be cheaper for NAVAIR to settle the claim up front. After analyzing the researcher's data the results indicated that 23 of the 25 claim cases that have been previously settled since 1996 were settled for less than the original requested claim amount. This equates to a 92 percent rate. Therefore, NAVAIR should continue with their claims resolution process because the claim processing cost savings anticipated by settling the claim up front is far less than the savings that might be obtained from a negotiated settlement. The above information only pertains to claims that are not in litigation.

For claims that go to litigation, the average age of the claims listed in Chapter III, Table 3.5 is 40 months. The average amount of time that a claim has been in litigation is 27 months. Even though the Navy Litigation Office does not track the costs of claims that go to litigation, it would appear that the processing costs of a claim in litigation would be higher than a claim not in litigation.

C. CLAIMS WITH LAPSED APPROPRIATIONS

The original contracts of the claims/REAs that were not in litigation and those surveyed were funded with various appropriations. Congress approves funding in the form of appropriations. As previously defined in Chapter I, an appropriation is defined as a statute that provides budget authority for Federal Government agencies to incur obligations and to make payments out of the

treasury for specified purposes. [Ref. 16: p. A-17] Additionally, appropriations are categorized in three different ways:

- (1) purpose, that is, either expense or investment;
- (2) duration, i.e., annual, multiple year, or no-year; and
- (3) level of funding, either incrementally or fully funded. [Ref. 16: p. A-19]

The two main categories of the different types of appropriations are expense-type and investment. The expense-type appropriations fund the cost of day-to-day operations within the Department of Defense. The investment appropriations are comprised of two areas: procurement and military construction. Within the procurement arena, funds are used to purchase material such as aircraft, weapons, ships, etc. Within the military construction arena, funds are used to construct buildings. [Ref. 16: pp. A-19 thru A-20] This thesis is concerned with the expense-type appropriation of Operation and Maintenance, Navy (O&M, N) and the investment appropriation of procurement.

Appropriations have a specific obligational availability period, that is, the time in which obligations must be incurred. The obligational availability period is divided into three classifications, which are annual, multiple year, and continuing or no-year. Annual appropriations are available to incur obligations during that fiscal year only. Multiple year appropriations are available to incur obligations for a definite period beyond one fiscal year. The no-year appropriations are available to incur obligations for an indefinite period of time. [Ref. 16: p. A-20]

As to the level of funding, appropriations can be either incrementally or fully funded. Incrementally funded means that the increment funded by Congress is one year's worth. The term fully funded means that funds are appropriated to fully construct a specific number of ships or aircraft, etc. [Ref. 16: p. A-20]

The O&M, N appropriation funds the cost of ongoing operations; for example, base operations, civilian personnel salaries, and steaming and flying operations. The obligational availability period of this appropriation is one year. The O&M, N appropriation is incrementally funded. [Ref. 16: p. A-17]

The different types of investment appropriations in the area of procurement are Aircraft Procurement, Navy (APN); Shipbuilding and Conversion, Navy (SCN); Weapons Procurement, Navy (WPN); Other Procurement, Navy (OPN); Research, Development, Test and Evaluation, Navy (RDT&E, N).

The appropriation, APN, funds the procurement of Navy and Marine Corps aircraft and related supporting programs; for example, ground support equipment. The obligational availability period of this appropriation is three years. This appropriation is fully funded. [Ref. 16: p. A-18]

The SCN appropriation finances the construction of new ships and the conversion of existing ships. The duration for the use of this appropriation is nominally five years. This appropriation is fully funded. [Ref. 16: p. A-18]

The appropriation, WPN, funds the procurement of missiles, torpedoes, guns, and supporting equipment for Navy and Marine Corps forces. The obligational

availability period of this appropriation is three years. The WPN appropriation is fully funded. [Ref. 16: p. A-18]

The OPN appropriation provides funds for the procurement, production, and modernization of equipment. The obligational availability period of this appropriation is three years. This appropriation is fully funded. [Ref. 16: p. A-18]

The appropriation, RDT&E, N funds the cost of the scientific research, development, test and evaluation of new and improved weapons systems and related equipment for the Department of the Navy. The obligational availability period of this appropriation is two years. The RDT&E, N appropriation is fully funded. [Ref. 16: p. A-17]

Another form of funding is the Navy Working Capital Fund (NWCF), which is a revolving fund. The NWCF is not a type of appropriation. The NWCF is defined as an account or fund in which all income is derived from its operations and is available to finance the fund's continuing operations without fiscal year limitation. [Ref. 17] Although the NWCF is not a type of appropriation, it is classified as a no-year appropriation. [Ref. 16: p. A-20] A no-year appropriation means that there is not a fiscal year limitation for the use of these funds. A breakdown of all the appropriations listed above to include NWCF and their obligational availability period is presented in Table 4.4.

Duration of Appropriations (Years)

- Annual O&M (1)
- Multiple Year RDT&E (2) APN (3) WPN (3) OPN (3) SCN (5)
- No-year WCF

Table 4.4: Duration of Appropriations
Source: [Ref. 17]

At the end of the obligational availability period, which can cover a period of time anywhere between one to five years depending on the appropriation, the expenditure availability period starts. For all appropriations the expenditure availability period is five years. During this timeframe new obligations may not be created and detailed accounting records must be maintained. During this five-year period the appropriation becomes an expired appropriation. An expired appropriation is an appropriation, which is no longer available to create new obligations but is still available for disbursement to liquidate existing obligations. [Ref. 16: p. A-22] In other words, unobligated funds from expired appropriations can only be used for within scope contract changes and not for the establishment of new obligations. At the end of this five-year period, the expired appropriation becomes a lapsed (closed) appropriation, where the undisbursed balance is no longer available for disbursement. Once the

appropriation lapses, contract changes and claim settlements are paid from current fiscal year funds. The above information was provided to familiarize the reader with the Department of Defense's funding process and terminology.

The Department of Defense is using fiscal year 1999 funds as of the commencement date for the data analysis. As of 30 September 1998 NAVAIR had eight of 18 claim cases not in litigation that had been recently settled or negotiations were ongoing with lapsed appropriations. This equates to approximately 44 percent of the claims that were surveyed. This means that the settlement amount of these claims must be funded with current fiscal year funds. A breakdown of the above data is presented in Table 4.5. Based on the information provided from the surveys and the various reports provided by NAVAIR, the total dollar amount of these eight claims/REAs is \$26,849,192. Negotiations are still ongoing for four of the eight claims. Hence, the anticipated settlement amount was not provided. The total negotiated settlement for the remaining four claims/REAs is approximately \$7,365,000. The dollar amounts of the individual claims/REAs are presented in Chapter III, Table 3.2.

Claims not in Litigation as of September 1998

Claim/REA Serial Number	Contract Appropriation	Fiscal Year	Appropriation Lapses	Settlement Date
97-2HQ	APN	85	92	0998
97-4HQ	APN	89	96	0898
97-5HQ	APN	89	96	0898
97-6HQ	APN	89	96	0898
97-24HQ	APN	90	97	1198
97-26HQ	OPN	93	00	0998
98-1HQ	O&M,N	90/91	95/96	Ongoing
98-2HQ	O&M,N	90/91	95/96	Ongoing
97-6AD	APN	92	99	Ongoing
97-10AD	NWCF	94		Ongoing
97-14AD	APN	94/95	01/02	0398
98-2AD	RDT&E, NWCF	91	97	Ongoing
97-2WD	NWCF	90		0198
97-3WD	NWCF	90		0198
97-7WD	NWCF	94		Ongoing
98-2WD	WPN	95	02	Ongoing
97-12TSD	APN	92/93	99/00	Ongoing
98-17TSD	O&M,N	97	02	Ongoing

Table 4.5: Claims not in Litigation

Source: Developed by researcher

As of May 1998 NAVAIR had 13 of 19 claim cases in litigation which had lapsed appropriations. This equates to approximately 68 percent of the claims in litigation. This means that current fiscal year funds will be used whenever a settlement is reached. A breakdown of the above data is presented in Table 4.6. The total dollar amount of these 13 claims is \$384,858,670. The dollar amounts of the individual claims are presented in Chapter III, Table 3.5.

Claims in Litigation as of May 1998

Claim/REA Serial Number	Contract Appropriation	Fiscal Year	Appropriation Lapses
97-1HQ	RDT&E	86-95	92-01
97-3HQ	APN	82/85/88	89/92/95
97-9HQ	NGR	88/89	
97-10HQ	WPN	91	98
97-13HQ	OPN, SCN, FMS	87-89	94-96/96-98
97-17HQ	WPN	91	98
97-20HQ	APN	83	90
97-21HQ	RDT&E	90	96
97-1ACO	O&M,N	93	98
97-3ACO	O&M,N	92	97
97-5AD	APN	87	94
98-1AD	NWCF	93	
97-1WD	NWCF	90	
97-4WD	RDT&E	93	99
97-3TSD	APN	90	97
97-7TSD	FMS	93	
97-11TSD	OPN	83/84/85	90/91/92
97-13TSD	OPN	87	94
97-16TSD	FMS	93	

Table 4.6: Claims in Litigation

Source: Developed by researcher

Prior to analyzing the data, the researcher's assumption was that the claims resolution process is a long and drawn out process and that the Department of Defense was funding a majority of the claim settlements with current fiscal year funds. After analyzing the data, the data did indicate a trend for settling claims with current fiscal year funds. This indicates that it takes too long to settle a claim and that the claims resolution process needs to be streamlined in order to prevent having to use current fiscal year funds in the future. In some cases, it

takes over five years for the Department of Defense to pay for contracted work that should have been completed prior to the expiration of the appropriation. Therefore, it is apparent that something is wrong with the way the Government settles claims. Hence, action should be taken to correct this long and drawn out claim resolution process. Of the 37 total claim/REA cases previously mentioned, 21 of them have lapsed appropriations. This is equivalent to 57 percent of the total active NAVAIR claims that are either in litigation or not in litigation. The total dollar amount of these 21 claims/REAs is approximately \$411,707,862. This large amount has the potential to create a major financial burden to NAVAIR, especially when current fiscal year funds have to be used to pay for these claim settlements. Figure 4.1 summarizes the above data.

LAPSED APPROPRIATIONS

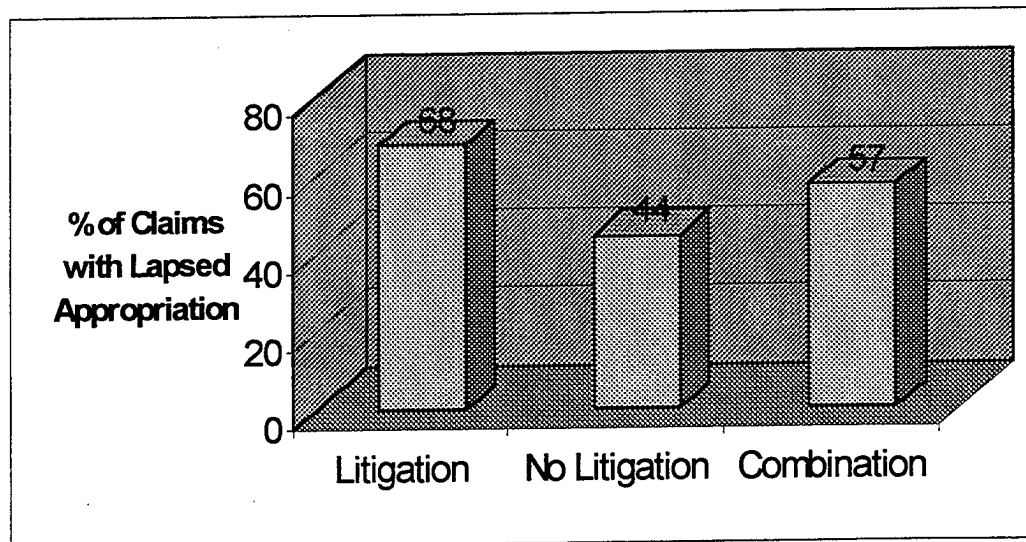


Figure 4.1: Lapsed Appropriations
Source: Developed by researcher

D. SUMMARY

This chapter identified the cost for processing a claim based upon a dollar threshold of the original claim amount. The chapter analyzed trends regarding claim settlement taking into consideration the costs for processing a claim. This chapter also analyzed trends regarding claims with lapsed appropriations. The final chapter summarizes the researcher's conclusions and recommendations based on the findings.

V. CONCLUSIONS AND RECOMMENDATIONS

A. INTRODUCTION

This chapter is divided into four sections. The first section provides answers to the primary and secondary research questions. The second and third sections present the conclusions and recommendations, respectively. The final section recommends areas for further research.

B. RESEARCH QUESTIONS

1. Primary Research Question

What does it cost NAVAIR to process a claim that does not go to litigation?

Surveys were distributed at NAVAIR and NAVAIR's remote sites in order to determine the cost to NAVAIR for processing a claim that is not in litigation. The estimated cost to NAVAIR for the processing of the individual claims that were surveyed is presented in Chapter III, Table 3.2. The identification of a claim amount dollar threshold is associated with the claim processing costs, which is illustrated in Chapter IV, Table 4.2.

2. Secondary Research Questions

a. What is the purpose of claims?

The causes of claims are due to actions and situations which may occur by the Government. If the Government's actions have an impact on the contractor's performance of the contract, the contractor can submit a request for equitable adjustment. If the Government and contractor cannot mutually agree on a settlement or the contractor is not satisfied with the Contracting Officer's final

determination, the contractor can then submit a written claim for the compensation amount, or an adjustment in the delivery schedule.

b. What are the claims resolution process and procedures at NAVAIR?

The Naval Air Systems Command's claims resolution process is a very long and drawn out process. It can take 232-372 days for a Contracting Officer's final determination or 385-615 days for a negotiated settlement and over two years to settle claims that go to litigation. A flowchart of NAVAIR's process for claims analysis which includes all significant events and the average number of days it takes for the completion of each event is presented in Chapter II, Figure 2.1.

c. What are the cost elements associated with the processing of a claim at NAVAIR that does not go to litigation?

The cost elements associated with the processing of a claim at NAVAIR are labor, fringe benefits, travel, and other support costs. The major cost comes from labor, because the processing of a claim is labor intensive. The fringe benefit cost element includes employee's insurance, medicare, retirement, and other benefits. The cost element, other support costs, includes expert witness fees and expenses in support of the contractor.

d. What does it cost the U.S. Navy to process a claim that goes to litigation?

The costs to the U.S. Navy to process a NAVAIR claim that goes to litigation are not available. According to numerous telephone conversations with the Navy Litigation Office, these costs are not tracked because the Navy Litigation Office does not maintain their own personnel budget or charge any of their clients for

handling their cases. However, since 1995 the Navy Litigation Office has its own budget for contract litigation support services to handle expenses, such as, expert witness fees.

e. Given the costs of processing a claim, does it make good business sense to go through the entire process regardless of the dollar amount of the claim?

The researcher's data identified 23 of the 25 claim cases that have been previously settled since 1996 were settled for less than the original requested claim amount. Therefore, it makes good business sense for NAVAIR to continue with their claims resolution process. The claim processing cost savings anticipated by settling the claim up front is far less than the savings that might be obtained from a negotiated settlement.

C. CONCLUSIONS

The following conclusions were drawn based on the answers for the primary and secondary research questions:

1. For claims not in litigation, the costs for processing a claim can be substantial.
2. For claims in litigation, the costs for processing a claim are not tracked by the Navy Litigation Office.
3. Even taking into consideration the costs for processing a claim, it makes good business sense for NAVAIR to continue with their claims resolution process. 92 percent of the total claim cases that have been previously settled since 1996 were settled for less than the contractor's requested amount.

4. NAVAIR's claims resolution process is a long and drawn out process. 57 percent of the total active NAVAIR claims that are either in litigation or not in litigation have lapsed appropriations.

D. RECOMMENDATIONS

The following recommendations are provided:

1. For the purpose of monitoring the total cost of a claim, the Navy Litigation Office needs to maintain records of the costs associated with the processing of a claim that goes to litigation.

2. NAVAIR needs to monitor and streamline the claims resolution process in order to prevent having to use current fiscal year funds in the future to pay for claim settlements.

E. AREAS FOR FURTHER RESEARCH

The following are areas for future research:

1. A study examining a contractor's claims resolution process and procedures.

2. Continuation of this thesis focusing on civilian attorney's fees to process a claim that goes to litigation.

APPENDIX A. DEFINITIONS

Appropriation: A statute that provides budget authority for federal agencies to incur obligations and to make payments out of the treasury for specified purposes. [Ref. 16: p. A-17]

Board of Contract Appeals: The tribunals set up by Departments and agencies to provide appellate review of Contracting Officer's decisions. [Ref. 9: p. 5]

Claim: A written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. [Ref. 1: Sec. 33.201]

Claim Analysis Report: A document prepared by the integrated process team members involved with the facts of a claim. This document discusses the facts and analyzes the issues raised in the claim or request for equitable adjustment. [Ref. 10: enclosure (1)]

Contracting Officer's Final Determination: A letter to the contractor which states the Government's final position on a claim. The final decision must make a determination as to the merits and amount of the claim or request for equitable adjustment taking into consideration the requirements and subject areas listed in the Federal Acquisition Regulation under section 33.211. [Ref. 10: enclosure (1)]

Contractor: Any individual, corporation, partnership, association, institution or other legal entity that has entered into a contract to supply materials, products or services for an agreed upon consideration. [Ref. 22: p. 61]

Dispute: A conflict of claims or rights and/or disagreements concerning the position, legal rights, claims or demands between contracting parties. [Ref. 6: p. 173]

Entitlement: A conclusion based upon a determination of whether the claimant has grounds for seeking a contract adjustment, and normally a determination of the amount of adjustment to contract price and/or schedule that is proper. [Ref. 4: p. 34]

Legal Entitlement Memorandum: A document prepared by the Office of Counsel member of the integrated process team which addresses the legal strengths and weaknesses of a claim or request for equitable adjustment. [Ref. 10: enclosure (1)]

Request for Equitable Adjustment: A letter or proposal from a contractor requesting a change to the contract price, schedule, specifications, or other terms and conditions, to compensate the contractor for injuries resulting from government fault. [Ref. 10: enclosure (1)]

APPENDIX B. ACRONYMS

ADR	Alternative Dispute Resolution
APN	Aircraft Procurement, Navy
ASBCA	Armed Services Board of Contract Appeals
BCA	Board of Contract Appeals
CAFC	Court of Appeals for the Federal Circuit
CAR	Claim Analysis Report
CDA	Contract Disputes Act
COFD	Contracting Officer's Final Determination
DCMC	Defense Contract Management Command
DOD	Department of Defense
FAR	Federal Acquisition Regulation
GFE	Government-Furnished Equipment
GFI	Government-Furnished Information
GFP	Government-Furnished Property
IPT	Integrated Product Team
LEM	Legal Entitlement Memorandum
NAVAIR	Naval Air Systems Command
NAVSEA	Naval Sea Systems Command
NAWC	Naval Air Warfare Centers
NWCF	Navy Working Capital Fund
OGC	Office of the General Counsel

O&M, N	Operations and Maintenance, Navy
OPN	Other Procurement, Navy
PEO	Program Executive Officer
PIDMIS	Procurement Initiation Document Management Information System
RDT&E, N	Research, Development, Test and Evaluation, Navy
REA	Request for Equitable Adjustment
SCN	Shipbuilding and Conversion, Navy
TEAM	Naval Aviation Systems Team
TSD	Training System Division
WD	Weapons Division
WPN	Weapons Procurement, Navy

APPENDIX C. CHANGES CLAUSE

The following is a copy of the Changes Clause used in federal contracts:

CHANGES CLAUSE (FAR 52.243-1)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

[Ref. 1: Sec. 52.243-1]

APPENDIX D. DISPUTES CLAUSE

The following is a copy of the Disputes Clause used in federal contracts:

DISPUTES CLAUSE (FAR 52.233-1)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d) (2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) Contractors shall provide the certification specified in subparagraph (d) (2) (iii) of this clause when submitting any claim -

(A) Exceeding \$100,000; or

(B) Regardless of the amount claimed, when using -

(1) Arbitration conducted pursuant to 5 U.S.C. 575-580; or

(2) Any other alternative means of dispute resolution (ADR)

technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. If the Contractor refuses an offer for alternative disputes resolution, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request. When using arbitration conducted pursuant to 5 U.S.C. 575-580, or when using any other ADR technique that the agency elects to handle in accordance with the ADRA, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d) (2) (iii) of this clause, and executed in accordance with subparagraph (d) (3) of this clause.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

[Ref. 1: Sec. 52.233-1]

APPENDIX E. ROLES AND RESPONSIBILITIES OF IPT MEMBERS FOR CLAIMS

The following is a copy of an enclosure from NAVAIRINST 4365.3 establishing the roles and responsibilities of IPT members for claims:

1. IPT Leader. The IPT leader (as designated by the program manager) performs the following duties:
 - acts as a guiding force for the claim,
 - tracks milestone completion,
 - informs the program manager and appropriate comptroller of all funding issues shortly after claim submission or during claim analysis,
 - briefs the Program Executive Officer (PEO), when appropriate, on the assessment of a claim before negotiations begin, ADR begins, or a COFD is issued,
 - designates the technical experts.

2. Contracting Officer. The Contracting Officer performs the following duties:
 - issues all correspondence to the contractor,
 - is the sole interface between the contractor and the IPT, debriefs the IPT on the requirements of NAVAIRINST 4365.3,
 - issues the COFD or demand letter,
 - participates in the fiscal memorandum/claim analysis report/legal entitlement memorandum preparation,
 - may participate in the PEO briefing,
 - negotiates all claim settlements,
 - may procure claim support supplies and services,
 - reports and tracks the claim from inception through contract modification, claim withdrawal, or court decision,
 - inputs data into the Procurement Initiation Document Management Information System (PIDMIS),
 - may procure litigation support requested by the litigation team,
 - advises the litigation team of settlement progress during litigation.

3. Program Manager. The program manager is responsible for funding any claim settlement, and :
 - forms the claim IPT,
 - is responsible for the timely disposition of the claim,
 - obtains personnel from each competency as appropriate for the IPT,
 - funds all requirements of the claims IPT during the claims settlement process,
 - may fund requirements during the claims litigation process if not funded by the Navy Litigation Office,
 - funds claim settlements.

4. Technical Experts. The IPT shall include technical experts who can analyze the facts and issues of the claim. The technical experts may come from within the TEAM or a supporting activity (Defense Contract Management Command (DCMC), price fighters, former field activity, etc.). Technical experts are responsible for performing the following tasks:

- reviewing the claim,
- heading preparation of the CAR,
- participating in gathering, reviewing and analyzing data,
- providing data for LEM preparation,
- participating in the PEO briefing,
- may participate in negotiations or ADR,
- participating as part of the litigation team.

5. Counsel. Each claim shall have command counsel assigned to perform the following tasks:

- determine if the claim is properly certified,
- provide an initial review of the legal theories of the claim,
- provide a fiscal memorandum early in the process to determine appropriate fiscal year and type of funding,
- assist in preparation of the CAR,
- review the facts and the data of the case,
- suggest type of data to be gathered, review the quality of the data once it is gathered, and provide it to the Contracting Officer,
- prepare the LEM,
- review the COFD or demand letter and other correspondence,
- participate in negotiations and ADR as necessary,
- interface with the trial attorney.

6. Auditor. The auditor is responsible for verifying the contractor's actual costs and providing recommendations on the allowability, allocability, and reasonableness of all proposed costs. The auditor is responsible for the following duties:

- tailoring the audit to meet the needs of the IPT,
- providing all working papers and back up information for the audit to the IPT,
- participating in IPT decisions,
- supporting negotiations or ADR as necessary.

7. Litigation Team. The Office of the General Counsel (OGC) has authority over all appeals to the ASBCA and, as such, shall be the head of the Litigation Team. The Litigation Team shall also obtain assistance from the claim IPT, and other individuals required to support the litigation. For claims over \$400,000, generally the Litigation Office of OGC handles the claim in litigation at the ASBCA unless the claim is delegated to NAVAIR for handling. For claims under

\$400,000, generally TEAM attorneys will handle the claim in litigation at the ASBCA. When functioning as part of the Litigation Team, the claim IPT is responsible for the following:

- supporting the litigation throughout the appeal process,
- briefing the trial attorney on the case,
- developing and answering interrogatories and other discovery requests,
- assisting with case development and preparation.

The IPT is entitled to briefings from the litigation team on the litigation strategy and schedule. The IPT must adhere to all litigation deadlines set by the trial attorney, the ASBCA, or court. Failure to meet deadlines may result in sanctions against NAVAIR or a poor legal defense.

8. Trial Attorney. The trial attorney is the attorney who will represent the Navy in the litigation of the claim. If the claim is before the ASBCA and has a value over \$400,000, generally, the attorney shall come from the Navy Litigation Office. If the amount is under \$400,000, generally, the attorney shall come from Command Counsel. If the claim is before a court, the Department of Justice will represent the Navy, with assistance from the IPT. The trial attorney is responsible for coordinating with the program manager and the IPT.

[Ref. 10: enclosure (2)]

**APPENDIX F. SURVEY CONCERNING THE COSTS TO NAVAIR FOR
PROCESSING, SETTLING, AND EXECUTING
CLAIMS/REAS NOT IN LITIGATION**

Purpose of Survey: This survey is designed to obtain data to examine the claims resolution process and procedures at NAVAIR and to determine the cost to NAVAIR for processing a claim/REA that is not in litigation (i.e., a claim which has not been appealed to the ASBCA or U.S. Claims Court).

This survey should only take **5-10 minutes** to complete. Please provide your best estimate even though you may not be completely sure of the answer. Additionally, please place most effort on question number 10, the estimated number of personnel working on the claim/REA and estimated hours incurred, the most important part of this survey. We know your answers will not be exactly what costs were actually incurred; however, we are trying to arrive at an average approximate cost of working a claim. Thank you for your assistance.

1. Claim/REA Serial Number: _____
2. Claim/REA Contractor & Program: _____
3. Claim/REA Basis (Circle Major Category or Describe Other): *Constructive Changes, Late or Defective GFP/GFE/GFI, Specs/Drawings Defective or Impossible, Wrong Contract Type, Protest, Delay/Disruption/Stop-Work, Terms & Conditions (Different Interpretations of), Termination for Convenience/Default, Other* _____
4. Dollar Amount of Claim/REA: _____
5. Dollar Amount of Contract: _____
6. Date of Claim/REA or Submission Date (whichever is later): _____
7. Date of Commencement of Negotiations: _____
8. Claim/REA Status: _____

9. Estimated Negotiated Settlement (Handshake) Date: _____
10. Estimated Number of Personnel Working on this Claim & Estimated Hours Incurred to Date: Include PCO, Contract Specialists, Contracts Managers, Secretaries/Typists, Attorneys, Program Managers, Project Leaders, Engineers, Auditors, Other Technical Experts, etc.:

<i>Job Title, Category</i>	<i>Grade Level, Estimated GS</i>	<i>Estimated Amount of Time</i>	
		<i>Hours per Week</i>	<i>Number of Weeks</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

11. Estimated Travel Costs (If Any). Note: If travel costs are unknown include what is known; i.e., Number Trips, Number People, Destination, Number Days, etc.

<i>No. Trips</i>	<i>No. People</i>	<i>To/From/Return</i>	<i>No. Days</i>	<i>Air Fare</i>	<i>Per Diem</i>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

12. Any Other Costs: _____

13. Estimated Number of Weeks to Claim Resolution/Execution: _____

14. Do you estimate the same level of effort that you estimated above to continue at a consistent rate? _____ If not, describe the change. _____

15. Point of Contact and Phone Number: _____

**APPENDIX G. LOCALITY RATES OF PAY FOR WASHINGTON –
BALTIMORE AREAS**

1998 General Schedule
Locality Rates of Pay for
Washington – Baltimore, DC – MD – VA – WV

Hourly Rates by Grade and Step

Grade	Steps									
	1	2	3	4	5	6	7	8	9	10
1	6.66	6.88	7.10	7.33	7.55	7.68	7.90	8.12	8.13	8.33
2	7.49	7.67	7.92	8.13	8.22	8.46	8.70	8.94	9.18	9.42
3	8.17	8.44	8.72	8.99	9.26	9.53	9.81	10.08	10.35	10.62
4	9.17	9.48	9.79	10.09	10.40	10.70	11.01	11.31	11.62	11.93
5	10.26	10.61	10.95	11.29	11.63	11.98	12.32	12.66	13.00	13.34
6	11.44	11.82	12.20	12.58	12.97	13.35	13.73	14.11	14.49	14.87
7	12.71	13.14	13.56	13.98	14.41	14.83	15.25	15.68	16.10	16.52
8	14.08	14.55	15.02	15.49	15.96	16.43	16.90	17.36	17.83	18.30
9	15.55	16.07	16.59	17.11	17.63	18.14	18.66	19.18	19.70	20.22
10	17.13	17.70	18.27	18.84	19.41	19.98	20.55	21.12	21.69	22.27
11	18.82	19.44	20.07	20.70	21.32	21.95	22.58	23.21	23.83	24.46
12	22.55	23.30	24.06	24.81	25.56	26.31	27.06	27.82	28.57	29.32
13	26.82	27.71	28.61	29.50	30.39	31.29	32.18	33.07	33.97	34.86
14	31.69	32.75	33.80	34.86	35.92	36.97	38.03	39.08	40.14	41.20
15	37.28	38.52	39.76	41.01	42.25	43.49	44.73	45.98	47.22	48.46

[Ref. 15]

APPENDIX H. LOCALITY RATES OF PAY FOR ORLANDO, FL

1998 General Schedule Locality Rates of Pay for Orlando, FL

Hourly Rates by Grade and Step

Grade	Steps									
	1	2	3	4	5	6	7	8	9	10
1	6.55	6.76	6.98	7.20	7.42	7.55	7.76	7.98	7.99	8.19
2	7.36	7.54	7.78	7.99	8.07	8.31	8.55	8.79	9.02	9.26
3	8.03	8.30	8.57	8.83	9.10	9.37	9.64	9.91	10.17	10.44
4	9.02	9.32	9.62	9.92	10.22	10.52	10.82	11.12	11.42	11.72
5	10.09	10.42	10.76	11.10	11.43	11.77	12.11	12.44	12.78	13.11
6	11.24	11.62	11.99	12.37	12.74	13.12	13.49	13.87	14.24	14.62
7	12.49	12.91	13.33	13.74	14.16	14.57	14.99	15.41	15.82	16.24
8	13.84	14.30	14.76	15.22	15.68	16.14	16.60	17.07	17.53	17.99
9	15.28	15.79	16.30	16.81	17.32	17.83	18.34	18.85	19.36	19.87
10	16.83	17.39	17.95	18.51	19.08	19.64	20.20	20.76	21.32	21.88
11	18.49	19.11	19.72	20.34	20.96	21.57	22.19	22.81	23.42	24.04
12	22.16	22.90	23.64	24.38	25.12	25.86	26.60	27.34	28.07	28.81
13	26.36	27.23	28.11	28.99	29.87	30.75	31.63	32.50	33.38	34.26
14	31.14	32.18	33.22	34.26	35.30	36.33	37.37	38.41	39.45	40.49
15	36.63	37.86	39.08	40.30	41.52	42.74	43.96	45.18	46.41	47.63

[Ref. 18]

**APPENDIX I. LOCALITY RATES OF PAY FOR THE REST OF THE
UNITED STATES**

1998 General Schedule
Locality Rates of Pay for
the rest of the United States

Hourly Rates by Grade and Step

Grade	Steps									
	1	2	3	4	5	6	7	8	9	10
1	6.55	6.76	6.98	7.20	7.42	7.55	7.76	7.98	7.99	8.19
2	7.36	7.54	7.78	7.99	8.07	8.31	8.55	8.79	9.02	9.26
3	8.03	8.30	8.57	8.83	9.10	9.37	9.64	9.91	10.17	10.44
4	9.02	9.32	9.62	9.92	10.22	10.52	10.82	11.12	11.42	11.72
5	10.09	10.42	10.76	11.10	11.43	11.77	12.11	12.44	12.78	13.11
6	11.24	11.62	11.99	12.37	12.74	13.12	13.49	13.87	14.24	14.62
7	12.49	12.91	13.33	13.74	14.16	14.57	14.99	15.41	15.82	16.24
8	13.84	14.30	14.76	15.22	15.68	16.14	16.60	17.07	17.53	17.99
9	15.28	15.79	16.30	16.81	17.32	17.83	18.34	18.85	19.36	19.87
10	16.83	17.39	17.95	18.51	19.08	19.64	20.20	20.76	21.32	21.88
11	18.49	19.11	19.72	20.34	20.96	21.57	22.19	22.81	23.42	24.04
12	22.16	22.90	23.64	24.38	25.12	25.86	26.60	27.34	28.07	28.81
13	26.36	27.23	28.11	28.99	29.87	30.75	31.63	32.50	33.38	34.26
14	31.14	32.18	33.22	34.26	35.30	36.33	37.37	38.41	39.45	40.49
15	36.63	37.86	39.08	40.30	41.52	42.74	43.96	45.18	46.41	47.63

[Ref. 19]

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