

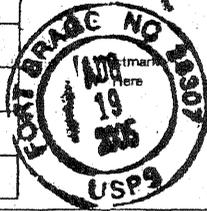
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CAPR: (5) _____ PBO Approval: (6) _____

Mandatory Source: (7) _____ Admin Approval: (8) _____

Approving Official: (9) _____
(Signature Block)



Supply/Service

Description	Qty	Unit Price	Total
<u>BLSS Helmet upgrade kit</u>	<u>1</u>	<u>\$132.59</u>	<u>\$132.59</u>
<u>Suunto Vector</u>	<u>4</u>	<u>215.95</u>	<u>863.80</u>

\$996.39

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IMPAC PURCHASE REQUEST

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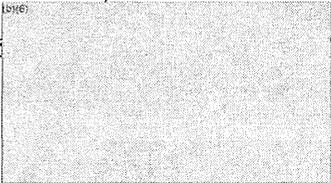
Unit/Section: (2) USAG POC/Phone: (3) 394-2490

Authority/Justification: (4) To support deployment.

CAPR: (5) _____ PBO Approval: (6) _____

Mandatory Source: (7) LCI - IEE/BSC Admin Approval: (8) _____

Approving Official: (9) _____
(Signature Block)



Supply/Service Description	Qty	Unit Price	Total
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\$996.39

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**ALTIMAX I VECTOR I X-LANDER
INSTRUCTION MANUAL**

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CHAPTER 1 INTRODUCTION

1.1 GENERAL INFORMATION

The Wristop Computer is a reliable high precision electronic instrument, intended for recreational use. The outdoor enthusiast who enjoys venturing in sports like skiing, kayaking, mountain climbing, hiking and biking can rely on the Wristop Computer's accuracy.

The ergonomically designed Wristop Computer weighs only 2 ounces or 55 grams and is accompanied by a LCD featuring a large number display intended to be clearly visible in almost any condition.

Note: The Wristop Computer should not be substituted for acquiring measurements that require professional or industrial precision and should not be used to acquire measurements when skydiving, hang gliding, parachuting, gyrocopter riding and flying small aircraft.

IMPORTANT NOTE: A PULLOUT PAGE LOCATED ON THE FRONT INSIDE COVER OF THIS MANUAL GRAPHICALLY ILLUSTRATES AND IDENTIFIES THE PROPERTIES OF THE WRISTOP COMPUTER AND LCD DISPLAY. THIS PAGE IS DESIGNED TO FACILITATE THE USER'S UNDERSTANDING OF THE FUNCTIONS AND PROCESSES TO SETUP THOSE FUNCTIONS.

1.2 MAIN FUNCTIONS (MODES)

Though the user's guide applies to all the Wristop Computer models, functions and differences in operation of the models are noted in the table below.

Functions	Wristop Computer Models		
	Altmax	Vector	X-Lander
Time	YES	YES	YES
Altimeter	YES	YES	YES
Barometer	YES	YES	YES
Compass	x	YES	YES

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In each of the functions, associated sub modes provide further enhancements to the usefulness of its owner. All key features and sub modes are discussed in detail following this section.

Note: Wristop Computer models Vector and X-Lander provide the same features. The difference is the Vector is housed in a sturdy plastic case and the X-Lander is brushed aluminum.

1.2.1 Backlight Features

The Wristop Computer has an electroluminescent backlight. This is initiated by pressing and holding the [Mode] button for 2 seconds. The backlight will remain on for 5 seconds. Pressing the [Mode] button during this time will restart the 5 second period, continuing the backlight feature.

1.2.2 Water Resistance

This product is water resistant. Water resistance is tested to 30m/100ft according to ISO 2281 standard (www.iso.ch).

Note: The Wristop computer is not a dive instrument.

1.3 BUTTON FUNCTIONS

Four buttons are used to operate the Wristop Computer: [Mode], [+] (ON/OFF), [-] (Fast Bearing), and [Select].

1.3.1 The [Mode] Button

is located on the top right of the Wristop Computer.

- In the main mode level, pressing the [Mode] button allows the user to select or move from one mode or function to the next (TIME, ALTI, BARO, COMP).
- In the sub mode level, pressing the [Mode] button returns the user to the main mode level.
- In the setup process, pressing the [Mode] button accepts the changes or preferences. Pressing the button again will return the user to the main mode level.
- Pressing the button for 2 seconds activates the backlight feature.

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1.3.2 The [+] Button

Is located on the bottom right of the Wristop Computer.

- In the setup process, pressing the [+] button changes or scrolls the value upward.
- In the timing and logbook functions, this button can act as a start/stop (or On/Off) button.

1.3.3 The [-] Button

Is located on the bottom left of the Wristop Computer.

- In the setup process, pressing the [-] button changes or scrolls the value downward.
- For the Vector and X-Lander models this button is also known as the "Fast Bearing" button. Pressing the [-] button in any of the main modes will quickly display the compass mode, showing either the normal compass or bearing tracking feature (depending on what display has been chosen in the compass mode).
- For the Altimax model, this button is also called the "Fast Cumulative" button. Pressing the [-] button in any of the main modes will quickly display the cumulative information of the current logbook recording.

Note: Details of this feature can be located on Page 26 of this manual.

1.3.4 The [Select] Button

Is located on the top left of the Wristop Computer.

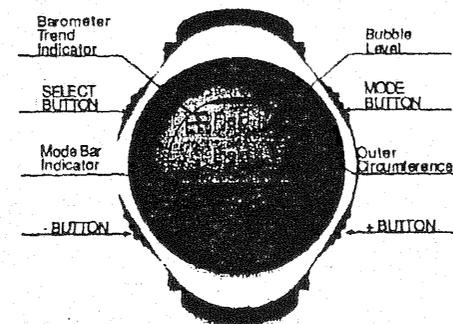
- In the main mode level, pressing the [Select] button allows the user to enter into the sub modes of the particular function or return to the main mode the user is in.
- In the main mode or sub mode, pressing and holding the [Select] button for more than 2 seconds allows the user to enter the setup process.
- In the setup process, the [Select] button allows the user to move between settable units or values and determine preferences.

1.4 LCD DISPLAY

The display is designed to offer maximum clarity and simplicity to the user.

The display is divided into several regions or areas.

- The Outer Circumference encompasses the outer boundary of the LCD display. The peripheral segments are found in the Outer Circumference.
- A Barometric Trend Indicator provides a quick reference for forecasting weather conditions.
- Field 1 displays values either numbers or text depending on the mode or sub mode the user is in.
- Field 2 displays large numbers and/or related unit of measure of the function.
- A Mode Indicator Bar displays the main modes (functions) of the Wristop Computer (a triangle arrow located just below the bar indicates the mode the user is viewing).
- Field 3 displays numbers and/or text.



1.5 MEASUREMENTS AND UNITS

The Wristop Computer supplies two units of measure: metric or imperial.

Metric Unit of Measure	Imperial Unit of Measure
m	ft
ml/min	fl/min
°C	°F
mbar	inHg

1.5.1 Selecting the Units of Measurement

To change the unit of measure displayed:

1. Check the mode indicator. If the mode arrow is not on TIME, PRESS the [Mode] button until the arrow is directly below TIME on the Mode Indicator Bar.
2. PRESS the [Mode] and [Select] buttons simultaneously and hold in for 3 seconds. Field 1 will display "SET" momentarily and then display "UNI" (Fig. 43).

Note: If the user does not press any button for 1 minute in the setup mode, the display will automatically exit setup.

WARNING: If the user presses the [Select] button (and does not hold for 2 seconds) while in the "UNI" setting mode, the user will be in the Pressure Sensor Calibration. Refer to the next section for details.

3. PRESS the [Select] button and hold in for 2 seconds. Located to the right in Field 2, "m" or "ft" will begin to flash.
4. PRESS the [+] button to toggle between "m" and "ft".
5. At the unit of measure desired, PRESS the [Select] button to move to the next unit. Located below the "m" or "ft" in Field 2, "mbar" or "inHg" will begin to flash.
6. PRESS the [+] button to toggle between "mbar" and "inHg".
7. At the unit of measure desired, PRESS the [Select] button to move to the next unit. Located at the top right in Field 1 (just above the bubble), °C or °F will begin to flash.
8. PRESS the [+] button to toggle between °C and °F.

9. At the unit of measure desired, PRESS the [Select] button to move to the next unit. Located at the top center in Field 1, "m/min" or "fl/min" will begin to flash.

10. PRESS the [+] button to toggle between "m/min" and "fl/min".

11. At the unit of measure desired, PRESS the [Mode] button to accept the changes. PRESS the [Mode] button again to return to the main time mode.

Selecting the units of measurement is complete.

1.6 PRESSURE SENSOR CALIBRATION

This is a FACTORY SETTING CALIBRATION. If you are in this mode we highly suggest that you exit this setting by pressing the [Mode] button. Calibrating this setting will ADVERSELY IMPACT all altitude and barometric settings of the Wristop Computer.

In this setting, the user will be viewing "SNR" (Sensor) in Field 1. Do not press the [+] or [-] button to adjust the pressure. Simply exit this setting by pressing the [Select] button to return to the "UNI" setting mode or by pressing the [Mode] button to return to the main mode.

If the Pressure Setting Calibration has been altered, in error, please contact our Product Support Department.

1.7 CARE AND MAINTENANCE

Perform only the detailed processes discussed in this manual. Do not perform any other service to the Wristop Computer or attempt to open the case or remove the buttons or the bezel.

Protect your Wristop Computer from shocks, extreme heat and prolonged exposure to direct sunlight. If not in use, your Wristop Computer should be stored in a clean, dry environment at room temperature.

The Wristop Computer can be wiped clean with a lightly moistened (warm water) cloth. Applying a mild soap to the area can clean stubborn stains or marks.

Avoid exposing the Wristop Computer to strong chemicals like gasoline, cleaning solvents, acetone, alcohol, adhesives, and paint, as they will damage the unit's seals, case and finish.

Never attempt to take the Wristop Computer apart or service it yourself. Make sure the area around the sensors (backside of the instrument) is kept free of dirt and sand. Never insert any objects into the sensor openings of the Wristop Computer.

Report of Survey 41-04, Block 26 Continued:

I have reviewed the additional statements provided by [REDACTED] and [REDACTED] and still recommend that they be held financially liable. The computations (Exhibit S) were revised based upon the recovery of one printer, one monitor, and the change in [REDACTED] pay.

15 Jul 05
Date

[REDACTED]

Survey Officer U



DEPARTMENT OF THE ARMY
HEADQUARTERS, 49TH QUARTERMASTER GROUP
3300 B AVENUE
FORT LEE, VIRGINIA 23801-5119

REPLY TO
ATTENTION OF:

AFEL-GC-L

12 April 2005

MEMORANDUM FOR Personnel Concerned

SUBJECT: Inventory

1. In May 2003, as I was preparing to PCS from Ft. Bragg, [redacted] was identified as my replacement. I informed her that a change of PBO inventory had to be conducted and 30 days was allotted for this said inventory. In accordance with DA Pam 710-2-1, a change of PBO inventory includes inventorying all equipment that has not been issued to a using individual or unit.

2. I am very sure this inventory was conducted because I would not present my clearing papers to anyone in S4 to clear me until I knew the inventory was (1) complete; (2) [redacted] was aware of the property and its location; and (3) she was satisfied that all property that was not issued was complete and serviceable. All equipment was present and complete at that time. By doing a change of PBO inventory, a change of Hand Receipt Holder was not necessary for this property as all property was inventoried during the change of PBO inventory.

[redacted]
Property Book Officer

Enc 1

12 APR 05

To whom it may concern:

I, [REDACTED] would like to make the following statement regarding report of survey #41-04, in reference to [REDACTED] NCOER rating.

[REDACTED] states that [REDACTED] failed to perform her duties/responsibilities as [REDACTED] supervisor because she gave him as "Excellent" rating for Responsibility/Accountability. There are two issues I would like to address in reference to [REDACTED] NCOER. First, at the time [REDACTED] was rated, there was no evidence that any equipment had been lost. Therefore, her rating was IAW the guidelines established in AR 623-205, and has no bearing whatsoever on this survey. Secondly, the initial NCOER [REDACTED] prepared, signed, and submitted was changed from a "Success" rating to an "Excellent" rating without her knowledge or consent. I informed her of this changed after she returned from ANCOC sometime in mid Jul 04.

END OF STATEMENT

[REDACTED]

Dragon Bde S-4

Report of Survey 41-04, Block 26 Continued

I have reviewed the rebuttal statement provided by [redacted] and [redacted] and still recommend that they be held pecuniarily liable.

Recommend that the processing of this survey continue.



Survey Officer

Report of Survey Block 26 Continued: 5 April 2005

On or about mid Feb 05, [redacted] returned this ROS to me based on the legal review dated 31 Jan 05. I have considered the legal review as well as personal statements submitted by [redacted] and [redacted] and I still recommend that both soldiers be held financially liable for the lost equipment. Since the legal review only challenged my findings and recommendations with respect to [redacted] I will only address her liability at this point.

[redacted] main two arguments are as follows: 1. She was never responsible for the lost equipment since it was never directly hand-receipted to her; and 2. the equipment could have disappeared at a point in time when she was not responsible for it, either personally or in a supervisory position. I will address each argument separately.

First, regardless of whether [redacted] ever actually signed for the equipment on [redacted] handreceipt, she always exercised supervisory responsibility over the equipment while [redacted] was signed for it and while she was his supervisor. Inherent in this type of responsibility is the duty to ensure that subordinates take proper measures to protect and account for all property for which they are responsible. Accordingly,

when [REDACTED] went TDY in May 03, [REDACTED] should have ensured that [REDACTED] complied with DA PAM 710-2-1, para. 5-3d(2) (b). This paragraph reads as follows:

"When a hand receipt holder leaves the area of his/her primary duties for a period in excess of 30 calendar days e.g., TDY, leave, emergency, hospitalization or extended detached duty, the commander/activity chief will appoint a temporary hand receipt holder. A joint inventory will be conducted upon departure and return of the hand receipt holder. This will ensure that direct responsibility for the property is maintained in a continuing basis."

Thus as a supervisor, [REDACTED] failed to ensure that [REDACTED] followed the proper procedures to account for his assigned property. This failure is exacerbated by the fact that [REDACTED] gave [REDACTED] an "excellent" rating for supply accountability on his NCOER. Furthermore, during [REDACTED] TDY, [REDACTED] exercised direct responsibility over the lost equipment since [REDACTED] directed [REDACTED] to conduct a joint inventory with [REDACTED] obviously directed [REDACTED] to conduct this inventory with the intention that she would assume direct and personal responsibility for the equipment while [REDACTED] was TDY. Accordingly, [REDACTED] negligently executed her supervisory and direct/personal responsibility by failing to follow the proper supply accountability procedures.

[REDACTED] second argument essentially addresses the proximate cause of the loss. Her argument is that proximate cause isn't established because it's impossible to determine when the property was lost. While it is true that there is no way to determine when the property was lost, [REDACTED] should not be allowed to rely on her own negligence to refute her culpability. In other words, if [REDACTED] would have conducted joint inventories with [REDACTED] as directed, and if [REDACTED] as [REDACTED] supervisor, would have assured that [REDACTED] was conducting required inventories, then it is quite probable that we could determine when the property was lost. Instead, [REDACTED] negligence, along with [REDACTED], proximately caused, at the very least, the loss of accountability. Accordingly, [REDACTED] negligence, along with [REDACTED] negligence, is the proximate cause of the loss.



DEPARTMENT OF THE ARMY
HEADQUARTERS, XVIII AIRBORNE CORPS AND FORT BRAGG
FORT BRAGG, NORTH CAROLINA 28310

AFZA-AC-L

10 May 2005

MEMORANDUM FOR , Commander, XVIII Airborne Corps, Hqs Bn (Rear) (Prov), Ft Bragg, NC 28310

SUBJECT: Rebuttal Report of Survey (ROS) No. 41-04, [REDACTED]
[REDACTED] \$5,267.00

1. This is a rebuttal to ROS No. 41-04, in which I am being recommended to pay \$571.30 of \$5,267.00 for the loss of computer equipment from the Dragon Brigade storage area. The Survey Officer's recommendations are erroneous because she failed to prove that I was negligent. Without this proof, I cannot be held financially liable. Therefore, I request disapproval of the Survey Officer's recommendation.

2. FACTS:

a. On 9 May 2003, I assumed duties as the Property Book Officer (PBO) for Dragon Brigade. Because the unit was understaffed in the PBO Section, I performed the duties and responsibilities as PBO, PBO NCOIC, PBO NCO and S-4 NCOIC for several months. I single-handedly maintained proper accountability for over \$50 million dollars in equipment and supplies. There was no loss of accountability during this time. I was also the supervisor of [REDACTED] the primary hand receipt holder for the lost computer equipment.

b. Around November 2003, [REDACTED] was hired as PBO. [REDACTED] and I conducted a Change of Property Book Officer's Inventory. There were no discrepancies or losses. She assumed direct responsibility for all equipment IAW AR 710-2 and DA PAM 710-2-1. I turned in all keys and had no further access to the storage area where the equipment was later lost.

c. From January thru July 2004, I was away from Ft Bragg, on TDY, leave and attendance at ANCOC at Ft Lee, Virginia.

d. On 16 June 2004, [REDACTED] assumed duties as the PBO. He assumed direct and supervisory responsibility of all equipment listed on the property records IAW AR 710-2 and DA PAM 710-2-1. No discrepancies were noted during that change of PBO inventory. He also became [REDACTED] rater in Feb 04, and continued to be his supervisor until Feb 05.

e. On 19 July 2004, I returned to the property book section. In early August, I learned that [REDACTED] would leave the section to work at the gym. I immediately directed him to conduct a "change of hand receipt holder" inventory with [REDACTED]. It was during this inventory that [REDACTED] the incoming primary hand receipt holder, discovered that equipment was missing.

AFZA-AC-L

SUBJECT: Rebuttal Report of Survey (ROS) No. 41-04, [REDACTED]

[REDACTED] \$5,267.00

3. DEFENSES: First and foremost, the survey officer cannot show that I was negligent in the discharge of my duties. She cannot show that I was the PBO or that I had any connection to or responsibility over the property book section when the equipment was lost. What her investigation does show strongly, however, is that [REDACTED] repeatedly failed to maintain minimum accountability of items in the storage area.

a. Standards: AR 735-5, para 13-30b(1), states that before a person can be held financially liable, "the facts must show that he or she violated a particular duty of care toward the property through negligence." Negligence is made up of four parts: Responsibility, culpability, proximate cause, and loss.

(1) Responsibility: As the PBO from May to November 2003, I was responsible for all of the equipment. From November 2003 to September 2004, [REDACTED] and [REDACTED] were responsible for the equipment.

(2) Culpability: I did everything a reasonable, prudent NCO would have done in similar circumstances. First, prior to the outgoing PBO, [REDACTED] departing in May, I conducted the inventory, and fulfilled all requirements, as directed by AR 710-2 and DA PAM 710-2-1. (Encl 1). I was not, and have never been, the hand receipt holder. Since a change of PBO inventory was conducted, no other inventory was required.

Second, as supervisor of [REDACTED] I counseled him on the SOP, as well as the unit and regulatory standards. Because he failed to maintain proper accountability of items in the storage area and other shortcomings, I gave [REDACTED] three negative counseling statements during December 2003 to July 2004 (Encls 2-4). The third led to a bar to his reenlistment, which was approved (Encl 5).

[REDACTED] continued to work in the office after I left, under the supervision of [REDACTED] and [REDACTED]. Additionally, [REDACTED] was the primary hand receipt holder for the lost computer equipment. Moreover, on at least four separate occasions during my attendance at ANCOG, [REDACTED] willfully failed to properly issue equipment on hand receipt. (Encl 6-8). Furthermore, [REDACTED] witnessed [REDACTED] allowing unaccompanied access to the storage room, specifically, to the computer equipment that later became missing. (Encl 9).

Third, I properly secured the office and storage area. I never allowed unaccompanied access to neither the storage area nor the office area. I properly issued all equipment on hand receipt as required.

Fourth, upon departure in November, I conducted an inventory with [REDACTED]. No discrepancies were noted and I was officially relieved from responsibility IAW AR 710-2. [REDACTED] assumed direct responsibility (Encl 10).

Lastly, the survey officer states that my failure as a supervisor was exacerbated by the fact that I gave [REDACTED] an "excellent" rating for accountability on his NCOER. The fact is, I did not give him an excellent rating, (Encl 11). [REDACTED] earned a success rating because there was

AFZA-AC-L

SUBJECT: Rebuttal Report of Survey (ROS) No. 41-04, [REDACTED]

[REDACTED], \$5,267.00

no loss of property. After I departed for ANCOC, [REDACTED] NCOER was changed without my knowledge or consent.

(3) Proximate cause: AR 735-5, para. 13-30c, states that proximate cause is the natural and continuous sequence of events unbroken by a new cause that produced the loss." Even if there is sufficient evidence to find that I had a duty of responsibility of that equipment, and that I breached that duty, there were intervening facts that were the immediate and proximate cause of the loss.

The legal review dated 31 January 2005, [REDACTED] notes that there was an intervening fact that broke the proximate cause; specifically [REDACTED] was not the PBO during the whole time when the property could have disappeared (Encl 12)." In fact, during January thru July 2004, I was away from Ft Bragg, on TDY, leave, and attendance at ANCOC at Ft Lee, Virginia.

(4) Loss: The financial liability is not computed properly. Items that were recovered are still included in the liability amount. For example, I found the Dell Monitor in [REDACTED] Office. I found that the HP DeskJet was issued by [REDACTED] to [REDACTED] without a hand receipt. [REDACTED] later returned the equipment and provided a statement. The equipment was added back onto the PB records and is currently issued to 101st Chem Co.

Also, when calculating the responsible amount, the Survey Officer did not use my correct base pay (Encl 13).

In addition, [REDACTED], [REDACTED], and [REDACTED] were also accountable for the missing items while I attended ANCOC. As such, they should also be held liable.

4. CONCLUSION: The conclusion of this report of survey is that it is legally insufficient. First, I was responsible for the equipment during May thru November 2003. At such time, I acted as any reasonable, prudent NCO. Additionally, the proximate cause of the loss can not be determined. Therefore, I recommend disapproval of the Survey's Officer's recommendations.

5. POC for the undersigned is [REDACTED]

Encls

1. [REDACTED] statement
- 2-4. Negative Counseling Statements, [REDACTED] from [REDACTED] 26 Dec 2003 – 26 July 2004
5. Bar to Reenlistment, [REDACTED] [REDACTED] 26 July 2004
- 6-8. [REDACTED] statement
9. [REDACTED] statement

AFZA-AC-L

SUBJECT: Rebuttal Report of Survey (ROS) No. 41-04, [REDACTED]

[REDACTED] \$5,267.00

Enls

10. AR 710-2

11. Legal Review

12. LES

13. [REDACTED] statement

24 FEB 05

MEMORANDUM FOR Commander, ~~Dragon Brigade~~, Fort Bragg, NC 28310

Subject: Request for Extension

1. I, [REDACTED] request a 15-day extension to conduct the Change of PBO inventory, for the following reasons:

- A. Property Book Accountability has not been established, since several hand-receipts have not been signed by hand receipt holders.
 - B. Cyclic and Sensitive Items Inventories have not been conducted by some hand receipt holders.
 - C. Out-going PBO has not updated system accesses, to allow incoming PBO full access to UIC/ Dodaac's appointed to account for in PBUSE, and remove access for WAUKAA and WHLWHD.
 - D. Out-going PBO must de-activate his access to UIC/Dodaac's he's no longer managing.
 - E. 22nd MPAD is deployed, however, equipment was not laterally transferred to gaining PBO, therefore
 - F. Discrepancies have been brought to my attention regarding hand receipt. Equipment that was initially inventoried by incoming hand receipt holder, was later deployed without hand receipt holder's knowledge or consent. Equipment must be verified in Iraq by losing hand receipt holder, and discrepancies must be fixed by outgoing PBO.
 - G. Currently, approximately 16 pages of lateral transfer documents are open in the PBUSE incoming message center. Outgoing PBO must close out all documents.
 - H. Files must be brought to satisfactory condition.
2. POC for request is the undersigned at [REDACTED]

[REDACTED]

Dragon Bde S-4

10 FEB 05

MEMORANDUM FOR ~~Commander~~, Dragon Brigade, Fort Bragg, NC 28310

Subject: Request for Extension

1. I, [redacted] request a 15-day extension to conduct the Change of PBO inventory, for the following reasons:

- A. Property Book Accountability has not been established, since several hand-receipts have not been signed by hand receipt holders.
- B. Cyclic and Sensitive Items Inventories have not been conducted by some hand receipt holders.
- C. Out-going PBO has not updated system accesses, to allow incoming PBO full access to UIC/ Dodaac's appointed to account for in PBUSE, and remove access for WAUKAA and WHLWHD.
- D. Out-going PBO must de-activate his access to UIC/Dodaac's he's no longer managing.
- E. 22nd MPAD is deployed, however, equipment was not laterally transferred to gaining PBO.
- F. Discrepancies have been brought to my attention regarding hand receipt. Equipment that was initially inventoried by incoming hand receipt holder, was later deployed without hand receipt holder's knowledge or consent. Equipment must be verified in Iraq by losing hand receipt holder, and discrepancies must be fixed by outgoing PBO.
- G. Currently, approximately 16 pages of lateral transfer documents are open in the PBUSE incoming message center. Outgoing PBO must close out all documents.
- H. Files must be brought to satisfactory condition.

2. POC for request is the undersigned at [redacted]

[redacted]

Dragon Bde S-4

31 January 2005

MEMORANDUM FOR Commander, XVIII ABN Corps STB, Fort Bragg, NC 28310

SUBJECT: Review of Report of Survey # 41-04

1. This office has reviewed the ROS # 41-04 and finds it legally insufficient for the following reasons:

a. With regards to responsibility, culpability and proximate cause for [REDACTED] the report of survey is legally sufficient, but as far as the loss, see paragraphs c. and d. below.

b. The documentation in the report of survey is not sufficient to hold [REDACTED] financially liable.

(1) According to AR 735-5 para. 13-28b and Appendix C para. C-10, to hold a person liable, that person must be somehow culpable through negligence or willful misconduct. In [REDACTED] rebuttals submitted to the survey officer and [REDACTED] she documents that she was doing a reasonable job in supervising [REDACTED] holder of the hand receipt containing the lost items. In assessing negligence, one must look at all of the surrounding circumstances and ask what a reasonable person of normal intelligence would do. [REDACTED] was dealing with a short-handed office, and was still diligent in writing up [REDACTED] for shortcomings. [REDACTED] cannot be held liable simply for being [REDACTED] supervisor, when it appears there was no negligence in her actions.

(2) According to AR 735-5 para. 13-28c and Appendix C para. C-11, in order to hold a person liable, that person's action or inaction must be the proximate cause of the loss. It is possible to hold a person liable even when the actual cause of the loss is unknown, but only if that individual had exclusive access and control over the missing property and if the only logical explanation for the loss is that the responsible party was negligent. In this report of survey it is not evident when the loss occurred. [REDACTED] was not the PBO during the whole time when the property could have disappeared. It is possible that the property disappeared at a time when she had no responsibility for it. In this case, when there is no evidence indicating what actually happened to the lost equipment, it is not appropriate to hold [REDACTED] liable since it has not been shown that she was in a responsible position when the property was lost.

c. The valuation of the property is inaccurate and overstated. According to AR 735-5, Appendix B-2a, the preferred method of valuation is fair market value at the time of the loss. AR 735-5, Appendix B-8 indicates that depreciation is the least preferable method. Fair market value is the amount it would cost to replace the equipment in the market. The Dell 810c model laptop included in the report of survey is no longer available new. However, a quick internet search for that laptop model indicates that the laptop may be bought refurbished from Dell for between \$715.00 and \$790.00 (see Att. 1). The survey officer indicates that the value at the time of loss was \$2,230.50 (\$2,974.00 with a 25% depreciation). This discrepancy is too large to be

AFZA-JA-A

SUBJECT: Review of Report of Survey # 41-04

ignored. The survey officer also does not indicate how long any of the equipment in question was in service, or when it was purchased. This information is extremely important in determining the value of the property.

d. The survey officer must establish a loss to the government before an individual may be held liable for the property, para. 13-28d, AR 735-5. The survey officer has not established that all of the equipment is actually missing. Specifically, it appears that one of the printers listed in the report has been found, as stated by S-4 Officer [REDACTED] in a statement dated 27 Oct 04 (Exhibit N). The survey officer must address this fact before charging anyone for that piece of equipment.

2. Other administrative problems that should be corrected but do not affect the legal sufficiency of this report of survey are:

a. AR 735-5 para. 13-27a provides that if there is a delay of more than 30 days in completing the report of survey by the survey officer, the delay must be explained in writing and attached to the report of survey as an exhibit. The survey officer was appointed 14 Oct 04, and the report of survey was completed by that officer on 29 Nov 04, a total of 45 days.

b. AR 735-5 para. 13-5 states that if the total processing time of the report of survey is longer than 75 calendar days, "the person responsible for the delay will prepare a written statement explaining the reason for the delay and attach it to the report of survey as an exhibit." The time period between the date the soldier received the report of survey and the date they submitted their rebuttals does not count toward the 75 day limit. This report of survey began on 15 Sep 04, and was signed by the appointing authority on 14 Jan 05, a total time in excess of 75 days. A memorandum must be prepared and attached to the report of survey explaining these delays.

3. Please send this memorandum and the report of survey back to the survey officer so that she may make changes consistent with this memorandum and resubmit it for further review.

4. POC for this memorandum is [REDACTED] at [REDACTED]

[REDACTED]

Chief, Administrative Law Division

AFZA-AC-CO (Rear) (710-2e)

10 Jan 05

MEMORANDUM FOR Organizational Property Book Officer, Dragon
Brigade, Ft. Bragg, NC 28310

SUBJECT: Duty Appointment (Property Book Officer)

1. Effective 10 Feb 05, [REDACTED] is appointed as the Organizational Property Book Officer, HHC, XVIII Abn Corps, WAUKHD/W36BZE, 1st Chem Det, WA89AA/W33VOB, 1st BCD, WDUPAA/W80855, 1st Corps Det, WJFFAA/W81YFH, 101st Chem, WGF2AA/W36J07, USAG, WOU320/W9020H, 702nd AG Det, WJHWAA/W913E9, 22nd MPAD, WHLWHD/W81NFF.
2. Authority: DA Pam 710-2-1, para 4-4, DA Pam 600-8, and procedure 9-9.
3. Purpose: To perform duties as prescribed above.
4. Period: Indef.
5. Special Instructions: None.

[REDACTED]

Commander

CF:

- 1 - INDIV CONCERN
- 1 - DUTY APPOINTMENT BOOK
- 1 - SUPPLY FILE
- 1 - SSA