

DOCUMENT RESUME

02125 - [A1322276]

[Carrier Transports Goods without Operating Authority].  
B-188229. May 4, 1977. 2 pp.

Decision re: District Containerized Express; by Paul G. Dembling  
(for Elmer B. Staats, Comptroller General).

Issue Area: Transportation Systems and Policies (2400).  
Contact: Office of the General Counsel: Transportation Law.  
Budget Function: General Government: Central Fiscal Operations  
(803).

Authority: 31 U.S.C. 82d. 52 Comp. Gen. 83. B-186917 (1977).  
B-181137 (1974).

GAO Certifying Officer Laura C. Palmer requested a decision on the propriety of certifying for payment vouchers which covered freight charges allegedly due on two shipments of printed forms. The carrier did not have the required operating authority to handle this type of shipment, but can be paid quantum meruit based on usual rates of authorized carriers. (RRS)

02125

*P. H. Seltzman*  
*T. Rand*



**DECISION**

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

FILE: **B-188279**

DATE: **MAY 4 1977**

MATTER OF: **District Containerized Express**

**DIGEST: Where a carrier transports goods without operating authority, carrier can be paid quantum meruit based on the usual or going rates of other duly authorized carriers for the same services.**

Mrs. Laura C. Palmer, an authorized certifying officer of the U.S. General Accounting Office (GAO), has requested an advance decision on the propriety of certifying for payment vouchers totaling \$1,279.96. The vouchers were presented for payment by District Containerized Express (District) and cover the freight charges allegedly due on two shipments of "printed forms, paper" tendered to District for transportation from Washington, D.C., to San Francisco, California. District's bill numbers are DCE-1090 and DCE-1076.

Mrs. Palmer, as an authorized certifying officer, is entitled to an advance decision by the Comptroller General on the question of law whether the freight charges should be certified for payment. 31 U.S.C. 82d (1970). And as required by our procedures, Mrs. Palmer has submitted the original vouchers presented for certification. 52 Comp. Gen. 83 (1972).

The record shows that District picked up in August 1976, two shipments of printed forms for transportation from GAO, Washington, D.C., to GAO, San Francisco, California, under Government bills of lading Nos. K-0283719 and K-0283727. Inside delivery was requested and authorized at destination.

Further development of the record in the form of a request for rate information from the General Services Administration (GSA) reveals that District does not have the required operating authority to handle this type of shipment, and that the billed rates were excessive. There is no evidence to indicate that the service performed for GAO was other than ordinary common carrier service.

We have held in the past that the contract of carriage is unenforceable where a carrier does not have the requisite

cia

B-188229

operating authority but that the carrier could recover a quantum meruit for its services because the shipper had received the benefit of those services. The quantum meruit should be based on the usual or going rates of other duly authorized carriers for the same or similar services. B-186917, March 9, 1977; B-181137, July 5, 1974.

Based on the information furnished by OGA, the lowest rates available to the Government on these two shipments are found in United States Government Quotation I.C.C. 2-A, Item 680, as follows:

<u>Voucher</u>	<u>Weight</u>	<u>Rate</u>	<u>CHARGES</u>	<u>Inside Delivery</u>	<u>Total</u>
DCE-1076	1,612 lbs.	\$9.67 cwt.	\$155.08	\$18.22	\$174.10
DCE-1090	2,582 lbs.	\$9.48 cwt.	\$244.77	\$29.18	\$273.95

The vouchers are being returned to the certifying officer and may be certified for payment in the amounts shown above.

Similar shipments may also be paid on a quantum meruit basis, after verification and determination of the available rates by OGA.

Paul G. Drabling

For  
Comptroller General  
of the United States