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DECISION



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

FILE: B-210740.2

DATE: June 14, 1984

MATTER OF: Starflight, Inc.

DIGEST:

Prior decision sustaining a General Services Administration finding that a carrier has overcharged the government is affirmed where the carrier's request for reconsideration fails to demonstrate that errors of fact or of law exist in that decision which warrant its reversal or modification.

Starflight, Inc. requests reconsideration of our decision, Starflight, Inc., B-210740, Sept. 27, 1983, in which we sustained a finding by the General Services Administration (GSA) that Starflight had overcharged the government \$2,134.16 for services involving the air transportation of two shipments of machine guns under government bill of lading (GBL) Nos. S-0,953,548 and S-0,953,580. The basis for our decision was that the government is entitled to the carrier's applicable tender which affords the government the most favorable rate, and where a carrier's claim for payment is based upon a tender, ambiguities in the terms of that tender will be resolved against the carrier. Thus, we decided that GSA properly applied Starflight's Tender No. 4 to both shipments even though the terms of Starflight's Tender No. 3, improperly cited in one of the GBLs, stated that Starflight Tender No. 2 (containing higher rates than Tender No. 4) was to be used if Tender No. 3 was inapplicable. We affirm our decision.

Starflight requests reconsideration of our decision on the ground that GSA did not have the authority to apply Tender No. 4 where another of the carrier's tenders gave contrary instructions as to which tender is to be used when the tender cited in the GBL is inapplicable.

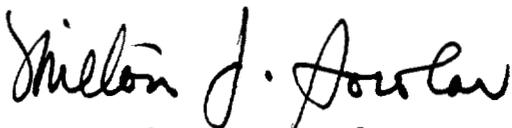
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In our decision, we stated that we would not apply the provisions of Tender No. 3 to a shipment to which that tender was not applicable. We thus concluded that the government was entitled to the most favorable rates notwithstanding any provisions of Tender No. 3 which purported to establish rates for shipments expressly not covered by Tender No. 3. In short, we indeed do believe that GSA could properly apply the tender affording the government the lowest rate, notwithstanding the provisions of Tender No. 3. Further, we do not believe, as Starflight argues, that it is at all inconsistent to look to the provisions of a tender to determine whether that particular tender applies to a shipment, and once it is determined that the tender does not apply to the shipment, to ignore language in that inapplicable tender which purports to instruct the shipper as to the tender which should be applied. We find nothing in Starflight's request for reconsideration to indicate that our decision contains errors of fact or of law which warrant its reversal or modification.

The prior decision is affirmed.

for 
 Comptroller General
 of the United States