

Billard



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: ExpressCo Inc. - Request For Review of General  
Services Administration's Deduction Actions

File: B-229349

Date: June 10, 1988

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### DIGEST

A carrier's request for review of transportation audit actions taken by the General Services Administration (GSA) under 31 U.S.C. § 3726(d)(1) (1982) will not be considered by the Comptroller General to the extent transactions forming the basis of the request are not identified; and where a carrier fails to establish the existence of alleged informal agreements that it states formed the basis of its freight charges, overcharge deductions made by GSA based on lower tender charges are sustained.

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### DECISION

ExpressCo Inc. requests the Comptroller General under 31 U.S.C. § 3726(d)(1) (1982) to review transportation audit actions taken by the General Services Administration (GSA) in which overcharges were deducted from monies otherwise due the carrier. We sustain GSA's actions.

ExpressCo's request for review involves two matters: (1) operation of the alternation clause contained in the carrier's tenders, and (2) the issue of truckload versus less-than-truckload rates.

In GSA's audit of numerous ExpressCo bills the agency determined that lower charges, published in ExpressCo's rate tenders, were applicable, and deducted as overcharges the difference between the charges collected and the lower tender charges. ExpressCo concedes that it offered the lower rates to the government, but alleges that the higher charges it collected were based on informal agreements made with various transportation agents of the government who requested special services.

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## ALTERNATION OF TENDERS

ExpressCo furnished no bills or identification of transactions relating to deductions of \$56,648.80, which the carrier stated involved the issue of whether the government was entitled to lower tender rates under the alternation clause of the carrier's tenders. Under that clause rates published in other tenders were applicable if they produced lower charges. The carrier contends in effect that informal agreements superseded operation of the alternation clause. Otherwise, ExpressCo concedes, the government would have been entitled to the lowest available rates.

A threshold question in consideration of any request for review of GSA audit action is whether the request complies with the criteria provided in 4 C.F.R. § 53.3 (1987). See Coast Counties Express, Inc., B-194951, Nov. 23, 1979. Among the criteria is a requirement for identification of the transactions that are the subject of the requested review. In this case the carrier has provided no transactions relating to the alternation issue. Accordingly, that matter is not subject to review.<sup>1/</sup>

## TRUCKLOAD ISSUE

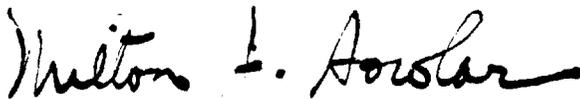
Concerning the truckload versus less-than-truckload issue, the carrier furnished copies of bills that illustrate deductions of \$40,747.35 on which ExpressCo collected truckload charges for the transportation of less-than-truckload shipments. ExpressCo furnished no evidence to support the allegations that informal agreements binding on the United States existed. Further, the Military Traffic Management Command reports that government agents did not request special services and entered into no agreements to pay the higher truckload charges. Carriers have the burden to establish the validity of their transportation charges and the contractual basis for services that are allegedly rendered. Starflight, Inc., B-211473 et al., Aug. 15, 1983, citing United States v. New York, New Haven & Hartford Railroad, 355 U.S. 253 (1957).

Since ExpressCo neither established the existence of binding informal agreements nor proved the validity of its claims,

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<sup>1/</sup> The carrier's brief referred to an Exhibit C as containing evidence of the transactions involved; however, ExpressCo never furnished the exhibit despite various requests by GSA and GAO.

GSA's audit actions applying less-than-truckload rates are sustained.

*for*   
Comptroller General  
of the United States