



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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JUL 14 1965

Mr. Richard S. Tribbe
 Director-Legislative Affairs
 Trans World Airlines, Inc.
 1000 Sixteenth Street, N. W.
 Washington, D. C. 20006

Dear Mr. Tribbe:

We have your letters of June 24 and May 7, 1965, in which you asked about possible legislative action to revise the provision in Pub. L. 85-762, August 26, 1958, 72 Stat. 860, 49 U.S.C.A. 66, which forever bars claims not received in the General Accounting Office within three years after accrual.

The question arises because claims when in the form of original billings are not presented initially to this Office, but to the department or agency which incurred the obligation. Although such claims are promptly presented, administrative delay in processing them may operate to prevent payment before the time has run. You illustrated your point with a specific case, involving Trans World Airlines bill 4-3386(61) (GAO claim TK-790309). This bill, presented in the latter part of April 1961 to the Department of Commerce, covered charges on five Government transportation requests (GTRs) for services furnished Trade Fair employees. It was forwarded for payment from counterpart funds to the American Embassy, Cairo, Egypt, where the GTRs were detached and the bill sent to your Cairo office, to be restated in Egyptian pounds. Your Accounts Receivable office in Kansas City then transferred the account to the Cairo office. The Cairo office seems to have complied with the Embassy's request and to have pursued the claim diligently. The Embassy, however, had lost or misplaced the GTRs. Finally, in a letter to the General Accounting Office dated April 3, 1964, your Cairo office listed the numbers of the missing GTRs and the amounts due, asked to what Embassy they had been allocated, and requested copies so that the claim could be collected. In a letter dated April 21, 1964, our Transportation Division furnished the address of the proper office in the Department of Commerce to which your bill could be submitted for payment of any amount remaining due. In July 1964, the bill was re-submitted, supported by certificates in lieu of lost transportation requests; at the end of October it was sent here for direct settlement. In January 1965, the bill was returned to Trans World Airlines because it had been received in the General Accounting Office on November 3, 1964, more than three years after accrual of the cause of action.

B-157001

We agree that the administrative handling of bill 4-3386(61) was a substantial factor contributing to the delay in its consideration for payment. However, we do not think that a proper cure would be amendment of 49 U.S.C.A. 66 to provide, for example, that timely receipt of a claim in the appropriate administrative agency would satisfy the statute. The three-year statute of limitations, 49 U.S.C.A. 66, applies alike to transportation claims by the Government and against it. On the one hand, it is an exception to the general rule that statutes of limitation do not run against the sovereign; on the other, it is an exception to the ten-year statute of limitations (31 U.S.C. 71a) applicable generally to claims against the United States cognizable by the General Accounting Office. While the statute limits the Government's claims to those made within three years from the date of payment by restricting the deduction power to that time span, it confers upon carriers a more flexible span by providing for the time to run from accrual of the cause of action (as in the illustrative situation), from the date of payment, from the date of refund of an overcharge, or from the date of deduction for an overcharge.

In ordinary circumstances, three years is more than sufficient time to permit administrative payment of a transportation claim. A change in the law which would substitute receipt in the appropriate administrative agency for receipt in the General Accounting Office could operate to prolong unduly the time before paid bills reach this Office for post-audit and settlement, permitting records to become stale or lost and thus defeating a primary purpose of the statute of limitations.

We have sought, in our regulations, to emphasize to claimants the need for compliance with the statute. Title 5 of the General Accounting Office Policy and Procedures Manual warns, in paragraph 6025.10, that filing a claim with another agency does not satisfy the statute; the claim must be received in our Office within three years of accrual. Paragraph 6020.40 offers a further precaution: claimants may file claims direct with the Transportation Division of this Office, "particularly if the applicable statutory period of limitations is about to expire." 5 GAO 6020.40.X

We understand, also, that representatives of our Transportation Division have discussed the three-year statute on various occasions with representatives of the air carrier industry. It was discussed, for example, at the 29th Meeting of the Clearing House and Revenue Accounting Subcommittee of the International Air Transport Association held in New York City, November 20-22, 1961, attended by representatives of all

B-157001

INITIALLY TO SUBMIT
 ACTION
 RECOMMENDATIONS
 BY THE DIVISION

major American and foreign air carriers. In the course of that meeting, representatives of our Transportation Division urged increased awareness of the three-year limitation on the part of the carriers; suggested watching closely the progress of bills submitted for payment and pressing vigorously any still unpaid two and one-half years after accrual of the cause of action; and, if such bills were not then promptly paid, advised filing protective duplicate bills with our Office, since the statute requires receipt here.

We note that Title 5 of the General Accounting Office Policy and Procedures Manual provides, in paragraph 2057.40 that when transportation requests have been lost or misplaced after they have been honored for services, a bill may be submitted for payment supported by certificates in lieu of lost transportation requests. And if the carrier does not know the agency to which the bill should be submitted, it may be sent to the Transportation Division of the General Accounting Office, from which it will be forwarded to the appropriate agency. Undue delay and consequent loss of entitlement to charges in such situations suggests the need for tighter accounting controls in the carrier organization.

Instances such as the present one have been encountered only occasionally. The problem seems to be not so much one subject to legislative correction as it is one of observing the statutory requirements for the presentation of claims and of carrier alertness in pursuing claims. In this situation, and since there are adequate protective measures available to carriers, we think legislative action such as you suggest is unnecessary.

The record relating to Trans World Airlines bill 4-3386(61) is not entirely clear as to when the services were actually furnished and when the matter was first brought to the attention of this Office. We have, therefore asked our Transportation Division to re-examine the matter in the light of the three-year statute, and in due course you will be further advised.

Very truly yours,

FRANK H. WEITZEL

Acting Comptroller General
 of the United States