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GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-190624

JAN 7 1980

Thomas P. Wolf
Assistant Commissioner
Office of Transportation Audits
General Services Administration
Washington, D.C. 20405

DL 601858

Dear Mr. Wolf: [Interpretation of Carriers' Individual Rate Tenders]

Subject: Trans Country Van Lines — CNG 00364
Your letter of May 1, 1979
Your file TACS (SR-015861-JFF)

You request reconsideration of our decision of August 29, 1978, B-190624, to Trans Country Van Lines, Inc. (Trans Country). In the decision we held that certain provisions of Trans Country's individual rate tender did not expressly or by inference disclose an intention to combine the rate basis in the individual tender with that in another tender for the purpose of computing linehaul rates on shipments transported over 3,000 miles.

In your request for reconsideration, you do not offer any new facts or argument. Instead, you cite GAO interpretations in three previous cases which you believe are inconsistent with the holding in the Trans Country case. They are 53 Comp. Gen. 868 (1974), a decision to Trans Country; a litigation report to the Department of Justice in an unrelated case; and an office memorandum to GAO's former Transportation and Claims Division.

The litigation report sets forth arguments for use in prosecuting a debt and the office memorandum contained internal instructions to one of our Divisions concerning the propriety of issuing certain notices of overcharge. Neither interpretation is a decision nor is it relevant to this case.

In 53 Comp. Gen. 868 (1974), to Trans Country, we held among other things that the carrier's individual rate tender applied. We also said as dicta that although certain provisions in Trans Country's individual rate tender disclosed

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an intention to incorporate by reference the released valuation provisions of another tender, the lower rates in the individual rate tender applied and the valuation charges were not assessable because the shipments moved on commercial bills of lading marked for conversion to Government bills of lading. The remarks in that case are dicta and are not a precedent for this case. See United States v. Polan Industries, Inc., 196 F. Supp. 333, 338 (D.W.Va. 1961).

Moreover, the decision of August 29, 1978, was binding on GSA in connection with the shipment thereunder consideration only and the interpretation and construction of tariffs and tenders used by GSA in its ongoing audit of carriers' accounts is for determination by GSA in the first instance.

Sincerely yours,

Charles Gorman

For L. Mitchell Dick
Assistant General Counsel