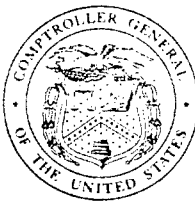


TRANS

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DECISION

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

FILE: B-193727

DATE: November 21, 1979

MATTER OF: Y. W. & T. Metal Corporation - Reconsideration

1901614

[Payment for transportation of Property in Interstate Commerce Without Proper Operating Authority]

DIGEST:

Contractor who enters into undertaking to transport property in interstate commerce must possess appropriate operating authority in its own name from Interstate Commerce Commission.

Y. W. & T. Metal Corporation (Y. W. & T.), in effect, has requested reconsideration of our decision of May 18, 1979, B-193727, in which we held that a transportation contract with Y. W. & T. for the movement of Government property from California to Arizona was contrary to the Interstate Commerce Act, 49 U.S.C. 1, et seq. and illegal, since Y. W. & T. was not authorized by the Interstate Commerce Commission (I.C.C.) to transport property in interstate commerce. We also held, however, that on presentation of a properly certified and supported Public Voucher For Transportation Charges, SF 1113, Y. W. & T. could be paid on the basis of quantum meruit the reasonable value of the services rendered measured by the usual rates of duly authorized carriers for the same or similar service.

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On request for reconsideration Y. W. & T. asserts, in pertinent part, that Y. W. & T. has a home base in Arizona, that its truck is licensed in Arizona, and that the service was "pieced out to different carriers," some of whom had State or I.C.C. operating authority. These factors do not, however, cure the legal defect, and our prior decision is affirmed.

Y. W. & T. undertook in its own name to transport Government property in interstate commerce from Barstow, California, to Casa Grande, Arizona, under Government bill of lading No. L-0097820 in 1974. If Y. W. & T. purported to contract as a motor carrier it was required by former section 206 of the Interstate Commerce Act, 49 U.S.C. 306 (1976) to hold authority as a common carrier, or by former section 209, 49 U.S.C. 309 (1976), as a contract carrier. A broker of transportation services was required by former section 211 of the Act, 49 U.S.C. 311

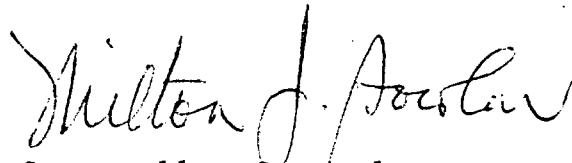
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(1976) to hold a license from the I.C.C., and a freight forwarder was required by former section 410, 49 U.S.C. 1010 (1976) to hold a permit from the I.C.C. These provisions are now in section 10921 of Title 49, United States Code.

As indicated in our prior decision we were informally advised by the I.C.C. that Y. W. & T. had no authority from the I.C.C. to transport property in interstate commerce. And the I.C.C. has held, that a contractor undertaking to transport property in interstate commerce, with exceptions not here pertinent, must hold operating authority from the I.C.C. in its own name. Bud's Moving & Storage, Inc., Declaratory Order, 128 M.C.C. 56 (1976). Contracting with authorized carriers to perform the service does not satisfy the law. Since Y. W. & T. did not have authority of any sort from the I.C.C. the undertaking to transport Government property in interstate commerce was in violation of the Interstate Commerce Act, illegal and unenforceable.

As held in our prior decision, however, if the services were performed and the benefit of the services received by the Government, the contractor may recover the reasonable value in quantum meruit. No basis has been shown for departing from that decision.

Accordingly, our decision of May 18, 1979, B-193727, is affirmed.



For the Comptroller General
of the United States