

DECISION

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

R. H. ...
Long
8077

FILE: E-191016

DATE: October 23, 1978

MATTER OF: Use of constructive weight in do-it-yourself household goods shipment program

DIGEST:

When public or government weighing scale is not available constructive weight based on seven pounds per cubic foot constitutes substantial compliance with evidentiary requirements of Joint Travel Regulations and Air Force instructions to establish weight of household goods moved under do-it-yourself household goods shipment program.

An Accounting and Finance Officer (AFO) of the Department of the Air Force has submitted a voucher for \$69.55 before him for payment and pursuant to 31 U.S.C. 74 (1976) requests an advance decision of the propriety of its payment.

Pursuant to orders to move quarters a member of the Department of the Air Force elected the do-it-yourself household goods shipment program for the transportation of his household goods. The member, acting on advice of a counselor at the McGuire Air Force Base Traffic Management Office (TMO) did not reserve a truck until the keys to his new quarters were received on the afternoon of August 31, 1977. Because of the nearness of the Labor Day weekend no trucks were available, and the member and three associates moved the household goods in six trailer loads.

The first three loads were weighed on scales giving a tare weight of the trailer of 3,460 pounds and net weights of 1,390 pounds, 1,260 pounds and 920 pounds for a total net weight of 3,570 pounds. Because of the time consumed in making repeated trips and weighings, the transportation could not be completed before the scales closed at 5:00 p.m. Thereafter, three additional loads were moved, but could not be weighed and weight certificates are not available. The AFO states that the member has been allowed a partial payment of \$88.14 for the household goods weighed but he believes that payment of \$69.55 for the unweighed portion is doubtful.

The "do-it-yourself" household goods shipment program for members of the Armed Forces was authorized pursuant to 37 U.S.C. 406 (1976) and section 747 of the Department of Defense Appropriation Act, 1976, Public Law 94-212, 90 Stat. 153, 176. Section 747 of the Appropriation Act provides:

"Sec. 747. Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation, to a member who, under regulations prescribed by the Secretary of the military department concerned, participates in a program designated by the Secretaries in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the government when the total cost of such movement is compared with the cost which otherwise would have been incurred under section 406(b)."

Implementing regulations are found in Volume 1, Joint Travel Regulations (1 JTR), chapter 8, part H (change 289, March 1, 1977).

The purpose of this program appears to have been two-fold, (1) to save the Government money by limiting the incentive payment to the member to 75 percent of what it would have cost the Government to ship the household goods not to exceed his actual weight allowance, less the cost incurred by the Government for the "do-it-yourself" move, and (2) to provide a convenience and extra income to the member if he chose to use this method. See 1 JTR, par. M8400.

Paragraph M8401, 1 JTR, provides that the member will establish the net weight of household goods with certified weight certificate(s) from a public weighmaster or Government scales. Paragraph M8400, 1 JTR, also provides that each of the services will issue such supplemental regulations as are considered necessary to judicially administer the program. Supplemental regulations issued by the Department of the Air Force are contained in message reference 141720, dated January 2, 1977, and provide:

"III WEIGHT REQUIREMENTS

A. EFFECTIVE 1 FEBRUARY 77 MEMBERS WILL BE REQUIRED TO OBTAIN TWO CERTIFIED SCALE TICKETS, ONE INDICATING THE TARE (EMPTY) WEIGHT OF THE TRUCK OR TRAILER AND THE OTHER THE GROSS WEIGHT AFTER THE TRUCK OR TRAILER IS LOADED. MEMBERS MUST BE ADVISED THAT ONLY CERTIFIED SCALES, EITHER GOVERNMENT OR PUBLIC, MAY BE USED AND THAT CERTIFIED SCALE CERTIFICATES REPRESENTING THE EMPTY AND LOADED WEIGHT ARE AN ABSOLUTE REQUIREMENT BEFORE AN INCENTIVE PAYMENT CAN BE MADE."

The apparent purpose of these regulatory provisions is to establish adequate evidence of the weight of the household goods. However, if strictly applied these regulations would require an impossibility when no public or government scale is available. The Government realizes considerable savings on each of these "do-it-yourself" moves when compared to the cost of moving the household goods on a Government bill of lading. Here the member has performed the service and the Government has received the benefit.

In Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, 489 (1939), the Interstate Commerce Commission found that the average weight of household goods was seven pounds per cubic foot of properly loaded van space, and held that tariff rules should provide for the use of a constructive weight based on seven pounds per cubic foot. The regulations governing the determination of weight for the transportation of household goods in interstate or foreign commerce, 49 C.F.R. 1056.6(2) (1977) provide:

"If no certified scale is available at origin, at any point en route, or at destination, a constructive weight, based upon seven pounds per cubic foot of properly loaded van space, may be used."

We believe, therefore, that a constructive weight computed on the basis of seven pounds per cubic foot adequately satisfies the evidentiary requirements and constitutes substantial compliance with the regulations. Cf. 1 JTR, Par. M8002-4, which contains a similar provision.

The record contains a report from the TMO which states in part that:

"Had the items listed in paragraph six (6) of [the member's claim] been weighed it is estimated an additional 2,520 pounds would have been added to the Do-It-Yourself Incentive cost."

The record also shows that the estimated weight of 2,520 pounds is a constructive weight apparently derived from multiplying seven pounds per cubic foot by 360 cubic feet, the volume of the unweighed portion of the member's household goods. That volume in turn seems to have been determined by the member with assistance from the TMO from information contained in the Inventory of Household Goods, DD Form 1701. The \$69.55, the amount of the voucher, is the do-it-yourself incentive cost based on the constructive weight of 2,520 pounds.

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Based on the evidence presented in this case, the original voucher, which is being returned to the AFO, may be certified for payment, if otherwise correct.

Deputy

R. C. Killian
Comptroller General
of the United States