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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D. C. 20548

[Payment for Services of Carrier Operating Without Authority]

FILE: B-188229

DATE: September 14, 1979

MATTER OF: District Containerized Express - *CDG00857*
Reconsideration

DIGEST:

Functions, such as containerizing and strapping parcels to skids, performed to facilitate forwarder's method of handling GAO's shipments, are not services for benefit of shipper for which carrier, operating without authority, may be paid on quantum meruit.

District Containerized Express (District) requests reconsideration of our decision of May 4, 1977, B-188229 to an authorized certifying officer of the General Accounting Office concerning the propriety of certifying for payment two vouchers covering freight charges allegedly due on two shipments of printed forms tendered to District for transportation from Washington, D.C., to San Francisco, California. We held in the decision that a carrier which transports goods without operating authority can be paid a quantum meruit based on the usual or going rate of duly authorized carriers for the same services. *GA000001*

Based on information furnished by the General Services Administration we advised the certifying officer to certify the vouchers for payment based on rates in United States Government Quotation I.C.C. 2-A, the lowest rates available to the Government for the transportation services furnished by District. The two vouchers, as well as 24 others, apparently have been paid on that quantum meruit basis and District objects to its use. *AGC000017*

District contends that the charges derived from Quotation I.C.C. 2-A do not provide reasonable compensation because the recovery is not comparable to the services rendered. District explains that GAO requested the forwarder to handle the shipments because the service being performed by a common carrier was unsatisfactory. District states that the cases of printed

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forms in some shipments were containerized and strapped to skids and that all shipments required weighing, marking, and arrangements for inside delivery at destination. To provide these services, District engaged District Moving and Storage, Inc., to pick up and prepare the shipments for subsequent transportation by common carrier; further, District says that the cost for the underlying common carrier services alone exceeded the quantum meruit recovery approved by GAO. *CDG 01327*

We do not believe that the circumstances described in District's request for reconsideration merit revision of our decision.

There is no evidence that the common carrier previously used by GAO failed to provide pickup and delivery service, including inside delivery, as well as transportation. Although the common carrier may not have containerized or strapped the cases on skids, or weighed and marked the shipments, as District apparently did in preparing them for transportation, we believe that these were operational functions facilitating performance of District's method of handling shipments, rather than services required by and provided for the benefit of the shipper.

The reason for the substitution of District for the common carrier was GAO's dissatisfaction with the overall quality of the latter's service and not with the individual services performed. While we recognize that GAO may be well satisfied with District's overall service, any benefit to the Government is derived from a competitive superiority between individual carriers performing the same or similar services. Under these circumstances there is no authority for the payment of any of District's costs that exceeded the going rates of competitive, duly-authorized carriers on the domestic shipments considered in our decision.

District also claims that two of the 24 vouchers covered overseas shipments which should not have been paid on the quantum meruit basis. If District believes it is due additional freight charges on those two shipments, it should present to our Claims Division a properly supported claim for those charges. See 41 C.F.R. 101-41.603-4 (1978); 4 C.F.R. 31 (1978).

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The decision in B-188229, May 4, 1977, is affirmed.

R. F. Kinn
Deputy Comptroller General
of the United States