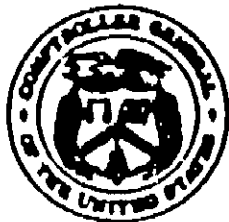


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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Tri-State Motor Transit Co.

File: B-251639

Date: July 29, 1993

DIGEST

Carrier filed a rate tender in response to Department of Defense solicitation for tenders to ship internal combustion engines from a contractor's plant in Cincinnati, Ohio, to a facility in Kansas. The origin plant's actual location was just outside the city, however, and the carrier already had on file a tender to ship engines from that location. The government properly used the rates in the Cincinnati tender, since it was clear from the solicitation, the responding tender, and the GBL that such rates would apply to shipments from the specified plant to the specified destination.

DECISION

Tri-State Motor Transit Co. requests review of the General Services Administration's (GSA) audit action in collecting \$290.08 from money otherwise owed to Tri-State for an overcharge on Government Bill of Lading (GBL) transaction C-8,030,405.¹ We sustain GSA's settlement.

On July 31, 1989, the Military Traffic Management Command (MTMC) issued a solicitation requesting carriers to offer tender charges at lower than existing rates² for recurring shipments of internal combustion engines from the General Electric Company's (GE) plant in Cincinnati, Ohio, to GE's facility in Arkansas City, Kansas.³ The solicitation stated, among other things, that the origin of the traffic was the "General Electric Company, Cincinnati, Ohio SPLC

¹Later correspondence from Tri-State requested review of three additional GBL transactions involving the same issue; this transaction is representative of all four.

²Carriers offer reduced charges to the government under 49 U.S.C. § 10721.

³GE was a Department of Defense contractor.

359900000,"⁴ and that carriers were to number tenders submitted in response in the 600,000 series. Tri-State responded with Tender 600,065, effective between August 23, 1989, and January 1, 1991.

The government subsequently prepared the GBL for a shipment of internal combustion engines (described on the GBL as "Freight All Kinds") to Arkansas City. The GBL described the origin as "Cincinnati, OH 45215," and the shipper as GE at "1 Neumann Way, Bldg. 800, Cincinnati, OH 45215." The GBL listed the origin SPLC as 359900, and cited Tender 600,065 in the "Tariff/Special Rate Authority" block when it prepared the GBL

In fact, GE's plant is located in Evendale, just outside of Cincinnati--1 Neumann Way is the street address, and zip code 45215 is in Evendale. Tri-State, which had transported engines from the GE plant to Arkansas City in the past, picked up and delivered the items as ordered. However, instead of billing the government under Tender 600,065, Tri-State billed under its Tender 230, which already was on file when the MTMC solicitation was issued, and which applied to internal combustion engines mounted on trailers shipped to and from a number of locations, including to Arkansas City from Evendale.

GSA recognizes that Evendale is 3 miles north of the corporate limits of Cincinnati, but argues that the plant's actual location is insignificant because it is obvious that shipments from GE's Evendale plant to Arkansas City were to be covered by tenders in response to the MTMC solicitation. GSA points out in this regard that Tri-State was well-aware of the plant's actual location when it responded to the MTMC solicitation and when it completed the GBL transportation. (GE had no plant within Cincinnati's corporate limits that manufactured or shipped aircraft engines.)

We agree that Tender 600,065 applies to the shipment.

Extrinsic evidence may be used to determine the underlying purpose of a contract when reading the contract's language literally would lead to a meaningless result. See Yellow Freight System, Inc., B-195574, Mar. 19, 1980; 51 Comp. Gen. 724, 726 (1972). Here, if the Evendale plant is not considered as being within Cincinnati for purposes of shipping internal combustion engines from the GE facility, Tender 600,065 would be meaningless. In our view, it should

⁴SPLC means Standard Point Location Code; these codes, used to identify geographic points like origin or destination, are maintained by the National Motor Freight Traffic Association.

have been obvious to Tri-State when it responded to MTMC's solicitation with that tender that the shipments would be from the Evendale plant.

Furthermore, the GBL as issued cited Tender 600,065, and the origin street address and zip code were those of the Evendale facility, from which Tri-State had picked up shipments in the past. We have held that a carrier has a duty to notify the shipper if a GBL contains on its face an obvious conflict between the service requested and the service offered. See Riss International, 66 Comp. Gen. 574, 577 (1987).

In sum, we think it clear that the intention of the government in issuing the solicitation and preparing the GBL, and of Tri-State in responding to the solicitation and effecting the shipment (without clarifying the GBL), was that Tender 600,065 would apply to shipments from GE in Evendale to Arkansas City.

GSA's settlement is sustained.

for *Stephen E. Brown*
James F. Hinchman
General Counsel