

B-259720

May 11, 1995

Auditor
Tri-State Motor Transit Company
P.O. Box 113
Joplin, MO 64802

Dear _____ :

We refer to your December 12, 1994, request that we review the General Services Administration's (GSA) settlement of your firm's claim in the amount of \$35 for tarpaulin service under Government Bill of Lading (GBL) D-0,949,446. We affirm GSA's settlement.

This matter involves the March 1991 move of a communications tower and parts for the Federal Aviation Administration (FAA) from Kansas City, Missouri to Oklahoma City, Oklahoma. Tri-State's applicable Rules Tariff 100-A provided that a tarpaulin service charge applied when the carrier supplies tarpaulins which are required or requested by the shipper or consignee. GSA points out that the FAA did not request tarpaulin service on the GBL and contends that no other documentation properly supported the service. You contend that Tri-State's work order, an internal document prepared in the ordinary course of business, recorded the directly expressed requirements of an individual you named who apparently was an employee of the contractor (Wilcox Electric, Inc.) that ordered the service.

While you offered some evidence that FAA's contractor requested tarpaulin service, in our opinion, it is insufficient to meet the burden of proof applying in cases such as this, where the claimant and the administrative officers of the government do not agree on the facts. This Office generally requires clear and convincing contrary evidence to overcome facts that are documented in the official agency record before us. See McNamara-Lunz Vans and Warehouses, Inc., 57 Comp. Gen. 415, 419 (1978). We may reconsider this matter

if Tri-State supplements its evidence with a detailed sworn statement from the contractor's employee or you present other evidence that meets the burden of proof.

Sincerely yours,

/s/ Seymour Efros

for Robert P. Murphy
General Counsel