

F. B. Ashen
T. J. Ashen

DECISION



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

8462

FILE: B-193434

DATE:

9/16

MATTER OF: Iberia Air Lines of Spain

DIGEST:

Regulations in 4 C.F.R. part 52 (1978), implementing Section 5 of the Fly America Act require as a condition precedent to payment of bills involving a non-United States-flag air carrier that there be a certificate justifying the use of non-United States flag air carriers. Bills without justification certificates will be returned to the billing carrier.

The Navy Regional Finance Center, Washington, D.C., asked us whether Delta Air Lines, the carrier to which a shipment was originally tendered in Bangor, Maine, was responsible for the arrangement of interline connection with an American-flag carrier having through service to Rota, Spain, the final destination, in compliance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, Pub. L. 93-623, 49 U.S.C. § 1517 (Fly America Act). The Act requires the use of United States-flag air carriers to transport Government-financed shipments of property to the extent such carriers are available.

The disbursing officer forwarded to this Office a copy of the voucher in question. Ordinarily the General Accounting Office will not render an advance decision unless the request is accompanied by an original voucher, properly certified and approved. 22 Comp. Gen. 588 (1943). Where the record shows, however, that the certifying or disbursing officer does have a voucher before him, the question presented may be decided in order to expedite matters. B-178441, June 18, 1973; B-177325, November 27, 1972.

The shipment was marked for Rota, Spain, moved on Government bill of lading No. K-3937544 from Bangor, Maine, to Seville, Spain, and was unrouted. The shipment was initially tendered to Delta Airlines at Bangor. The shipment was transferred from Delta to Iberia Airlines for delivery to Seville, Spain. The record does not indicate where the exchange between Delta and Iberia occurred. Iberia now claims \$563.97 on its original bill No. 80733076 for air transportation services.

When this shipment moved, Delta was the only large commercial air carrier serving the Bangor area. Delta did not have authority to serve Seville, Spain, the airport serving Rota, Spain.

Delta could have arranged for connection with a United States-flag air carrier having through service to Seville. It is not necessary to decide, however, whether Delta had the responsibility to make this connection under the Fly America Act. The ultimate issue here is the propriety of paying the bill of the foreign-flag carrier, Iberia Airlines. See B-190328, June 12, 1978. f

Under the regulations implementing the Act, each bill for payment of international air transportation services submitted by a foreign-flag air carrier must contain a certificate or memorandum explaining why American-flag service was unavailable. 4 C.F.R. § 52(c) (1978). The certificate must be signed by the Government official authorizing the transportation. In addition, the regulations provide that it is the responsibility of the billing carrier to secure the certificate and submit it as support for its bill for transportation charges. 4 C.F.R. § 52(e). Since the required certificate is not attached to Iberia's bill, the carrier cannot be paid for services furnished by a non-American flag air carrier.

The disbursing officer should return Iberia's bill and request that Iberia comply with the applicable regulations. If Iberia succeeds in obtaining the necessary certificate from the Government official who authorized the transportation, it may resubmit the bill to the Navy Regional Finance Center. The Center may pay the bill if it otherwise conforms to the requirement of the Fly America Act. See 56 Comp. Gen. 209 (1977).

D. J. KELLEN

Deputy Comptroller General
of the United States