Text as published on gao.gov, https://www.gao.gov/products/b-159783, archived 2026-07-17. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-159783, May 4, 1972

Number: B-159783

Date: 1972-05-04

B-159783, MAY 4, 1972

TRANSPORTATION - PROPOSED CONSOLIDATION OF SMALL FREIGHT SHIPMENTS - REQUEST FOR GAO APPROVAL CONCERNING A PROPOSAL OF THE GENERAL SERVICES ADMINISTRATION TO CONSOLIDATE SMALL FREIGHT SHIPMENTS AS A MEANS OF ACHIEVING SUBSTANTIAL ECONOMIES IN TRANSPORTATION COSTS. THE PROPOSAL WOULD REQUIRE WAIVER OF PRESENT GAO RESTRICTIONS AGAINST THE USE OF COMMERCIAL SHIPPER ASSOCIATIONS AS GOVERNMENT AGENTS, THE COMMINGLING OF GOVERNMENT AND COMMERCIAL TRAFFIC, AND THE USE OF COMMERCIAL IN LIEU OF GOVERNMENT BILLS OF LADING. IT APPEARS THAT THE SUBMITTED ARTICLES OF INCORPORATION AND BY-LAWS OF THE CHICAGO SHIPPERS ASSOCIATION WOULD QUALIFY FOR THE EXEMPTION CONTAINED IN 49 U.S.C. 1002(A) FROM THE PROVISIONS OF PART II OF THE INTERSTATE COMMERCE ACT. FURTHER, GSA WOULD BE ABLE TO MAINTAIN A SUFFICIENT DEGREE OF INDEPENDENCE AND CONTROL OVER THE ACTIVITIES OF THE AGENT. IN THESE CIRCUMSTANCES, THE PROPOSAL FOR THE USE OF COMMERCIAL BILLS OF LADING IN LIEU OF GOVERNMENT BILLS OF LADING IS APPROVED IN THE MANNER AND FOR THE PERIOD DESCRIBED.

TO MR. ROD KREGER:

IN LETTER DATED FEBRUARY 9, 1972, MR. M. J. NEWBOURNE, ASSISTANT COMMISSIONER FOR TRANSPORTATION, TRANSPORTATION AND COMMUNICATION SERVICE, GENERAL SERVICES ADMINISTRATION (GSA), REFERS TO OUR REPORT B 117196, DATED JUNE 30, 1969, IN WHICH IT WAS RECOMMENDED THAT THE DEPARTMENT OF DEFENSE AND GSA INITIATE ACTION TO CONSOLIDATE SMALL FREIGHT SHIPMENTS ON A GOVERNMENT-WIDE BASIS AS A MEANS OF ACHIEVING SUBSTANTIAL ECONOMIES IN TRANSPORTATION COSTS. MR. NEWBOURNE REQUESTS WAIVER OF RESTRICTIONS AGAINST (1) THE USE OF COMMERCIAL SHIPPER ASSOCIATIONS AS GOVERNMENT AGENTS FOR THE CONSOLIDATION OF SMALL SHIPMENTS, (2) THE COMMINGLING OF GOVERNMENT TRAFFIC WITH TRAFFIC OF COMMERCIAL SHIPPERS, AND (3) THE USE OF COMMERCIAL BILLS OF LADING IN LIEU OF GOVERNMENT BILLS OF LADING. THESE PRACTICES ARE NOT PERMITTED UNDER PRESENT REGULATIONS ISSUED BY THE GENERAL ACCOUNTING OFFICE.

WITH OUR CONCURRENCE IT IS PROPOSED THAT THE FEDERAL SUPPLY SERVICE OF GSA SOLICIT BIDS FOR THE PROCUREMENT OF SELECTED CLASSES OF MERCHANDISE (ONLY STORES STOCK ITEMS INITIALLY) ON BOTH F.O.B. ORIGIN AND F.O.B. DESTINATION BASES. AFTER RECEIPT OF OFFERS, A FREIGHT COST EVALUATION, CONSIDERING MOVEMENT THROUGH A CONSOLIDATION SYSTEM VERSUS DIRECT DELIVERY, WILL BE MADE TO DETERMINE THE MOST ECONOMICAL MEANS OF PROCUREMENT. THIS IS EXPECTED TO REQUIRE ABOUT 18 MONTHS. THREE PHASES OF THE PROGRAM ARE DESCRIBED, DURING THE FIRST TWO OF WHICH COMMERCIAL BILLS OF LADING WILL BE USED AND IN THE THIRD OF WHICH GOVERNMENT BILLS OF LADING WILL BE USED FOR LINE-HAUL TRANSPORTATION.

SUBMITTED FOR OUR REVIEW IS A COPY OF AN APPLICATION FOR MEMBERSHIP IN THE

CHICAGO SHIPPERS ASSOCIATION, INCORPORATED, A COPY OF ITS BY LAWS, AND A COPY OF ITS MEMBERSHIP LIST. WE PREVIOUSLY HAVE HELD THAT THERE IS NO LEGAL OBJECTION TO GOVERNMENT AGENCY MEMBERSHIP IN A SOCIETY OR ASSOCIATION WHEN THE PRIMARY PURPOSE OF THE MEMBERSHIP IS TO OBTAIN DIRECT BENEFITS DETERMINED NECESSARY FOR THE ACCOMPLISHMENT OF THE FUNCTIONS OR ACTIVITIES FOR WHICH AN APPROPRIATION IS MADE. SEE 33 COMP. GEN. 126; 24 ID. 814; 20 ID. 497; 19 ID. 937. CF. 32 COMP. GEN. 15.

WE WOULD HAVE NO OBJECTION TO YOUR AGENCY'S JOINING THE CHICAGO SHIPPERS ASSOCIATION OR ANY SIMILAR ORGANIZATION WHOSE ARTICLES OF INCORPORATION AND BY-LAWS CONTAIN COMPARABLE PROVISIONS AND CONDITIONS. IT APPEARS THAT THE ARTICLES OF INCORPORATION AND BY-LAWS OF THE CHICAGO SHIPPERS ASSOCIATION FALL WITHIN THE APPROVED LIMITS OF THE INTERSTATE COMMERCE COMMISSION AND COURT DECISIONS CONCERNED WITH THE PROPRIETY OF AN EXEMPTION FROM REGULATION CLAIMED BY SIMILAR ASSOCIATIONS OF SHIPPERS. THE EXEMPTION APPEARS IN 49 U.S.C. 1002(C) WHICH STATES THAT THE PROVISIONS OF PART II OF THE INTERSTATE COMMERCE ACT SHALL NOT APPLY TO:

"THE OPERATIONS OF A SHIPPER, OR OF A GROUP OR ASSOCIATION OF SHIPPERS, IN CONSOLIDATING OR DISTRIBUTING FREIGHT FOR THEMSELVES OR FOR THE MEMBERS THEREOF, ON A NONPROFIT BASIS, FOR THE PURPOSE OF SECURING THE BENEFITS OF CARLOAD, TRUCKLOAD, OR OTHER VOLUME RATES."

WE BELIEVE THAT IN OPERATIONS WITH THE CHICAGO SHIPPERS ASSOCIATION OR COMPARABLE TYPE OF ORGANIZATION, GSA WOULD HAVE A SUFFICIENT DEGREE OF INDEPENDENCE AND CONTROL OVER THE ACTIVITIES OF THE AGENT, THAT IS, THE SHIPPERS' ASSOCIATION, SO AS TO REMOVE ANY DOUBT THAT THE ASSOCIATION IS IN FACT THE DOMINANT PRINCIPAL OR THAT IT WAS ACTING AS A FREIGHT FORWARDER ORDINARILY SUBJECT TO THE PROVISIONS OF PART IV OF THE INTERSTATE COMMERCE ACT.

THE ARTICLES AND THE BY-LAWS DO NOT CONVEY ANY IDEA OF EXCLUSION OF THE MEMBERS FROM THE CONTROL OF AND ACTIVE PARTICIPATION IN THE ASSOCIATION, AND THE BY-LAWS PROVIDE THAT A MEMBER IS TO DEAL DIRECTLY WITH THE CARRIER IN THE HANDLING OF LOSS OR DAMAGE CLAIMS. IN THE CASE OF OVERCHARGES, THE MATTER WOULD HAVE TO BE TAKEN UP DIRECTLY WITH THE SHIPPERS' ASSOCIATION. UNDER ARTICLE X OF THE BY-LAWS THE ASSOCIATION IS TO ASSIGN ALL INTEREST IN LOSS OR DAMAGE CASES TO THE INDIVIDUAL MEMBERS AND TO FURNISH THEM WITH ALL INFORMATION AND DOCUMENTS NECESSARY TO PROSECUTE CLAIMS AND TO ASSIST IN THE COLLECTION OF THE CLAIMS.

IN THESE CIRCUMSTANCES, WE APPROVE YOUR PROPOSAL FOR THE USE OF COMMERCIAL BILLS OF LADING IN LIEU OF GOVERNMENT BILLS OF LADING IN THE MANNER AND FOR THE PERIOD DESCRIBED. UNLESS PROBLEMS ARISE WHICH REQUIRE OUR EARLIER REVIEW, WE WILL CONSIDER THE RESULTS OF THE OPERATIONS AFTER THE 18-MONTH TEST PERIOD AND IN LIGHT OF YOUR FURTHER PROPOSALS, IF ANY, FOR FINAL IMPLEMENTATION OF A CONTINUING PROGRAM ON A PERMANENT BASIS.

WE WOULD APPRECIATE RECEIVING INTERIM REPORTS, APPROXIMATELY EACH SIX MONTHS, CONCERNING THE PROGRESS BEING MADE. ALSO, PLEASE SEND US COPIES OF THE ARTICLES AND BY-LAWS OF ANY SHIPPER GROUPS OR ASSOCIATIONS WHICH GSA JOINS.