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United States Coast Guard Payment for Declaration of Higher Value

Number: B-244473.2

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Matter of: United States Coast Guard Payment for Declaration of Higher Value
File: B-244473.2 Date: May 13, 1993

APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation Availability Purpose availability Liability insurance The Coast Guard may not pay the excess declared value fees for the shipment of "valuables" under the Government Losses in Shipment Act unless the Secretary of the Treasury specifically authorizes such payments. Claims for replacement of "valuables" are paid out of the Government Losses in Shipping Fund. For items not falling under the definition of "valuables", the Coast Guard may not pay excess declared value fees for such items under the self-insurance rule unless it can be shown that: (1) the economy sought by self-insurance would be defeated; or (2) sound business practice indicates that a savings can be effected; or (3) services or benefits not otherwise available may be obtained by purchasing insurance.

DECISION An authorized certifying officer of the United States Coast Guard has asked for an advance decision concerning the propriety of using appropriated funds to pay a voucher to Federal Express for a declaration of higher value. As explained in further detail below, we conclude that the costs for declaration of higher value may only be paid in certain limited circumstances.

BACKGROUND

According to the submission and attachments, GSA has contracted exclusively with Federal Express to transport express packages. GSA, in the Federal Property Management Regulations (FPMR), requires all civilian agencies to use Federal Express. See FPMR, Temporary Regulation G-54, July 9, 1991. With respect to declared value and liability for loss or damages, the GSA's contract with Federal Express stipulates that Federal Express automatically values shipments at $250 per package or $9.07 per pound per package, whichever is greater. Id.[1] Agencies, however, may elect to declare a value in excess of this value. Federal Express charges an additional $0.30 for each $100 in excess of the automatic charge up to a maximum value per package of $25,000.

DISCUSSION

This Office has consistently held that appropriated moneys are not available for the payment of insurance premiums on government-owned property in the absence of specific statutory authority. B-237654, Feb. 21, 1991; 21 Comp.Gen. 928, 929 (1942). The United States government has long maintained a policy of self-insuring its own risks of loss. The rationale is straight forward--the magnitude of the government's resources makes it more advantageous for the government to carry its own risks than to pay premiums to private insurers.

B-237654, supra.

Nevertheless, we have noted in the past that the government's general practice of self-insurance is one of policy, not law. 55 Comp.Gen. 1321 (1976). Thus, we have held that when the economy sought to be obtained under this rule would be defeated, when sound business practice indicates that a saving can be effected, or when services or benefits not otherwise available can be obtained by purchasing insurance, exceptions to the general rule can be made. Id.

Apart from the general self-insurance rule and its exceptions, the Government Losses in Shipment Act (Act), 40 U.S.C. Secs. 721-729, imposes a statutory impediment to the purchase of insurance for government-owned "valuables."[2] The purpose of the law, enacted in 1937, was to prohibit any executive department, agency or wholly-owned corporation from expending any funds or incurring any obligation for insurance or the payment of premiums on insurance against losses in shipments of valuables except as specifically authorized by the Secretary of the Treasury. 40 U.S.C. Sec. 726; see also S. Rep. No. 738, 75th Cong., 1st Sess. 5 (1937). The Secretary may give such an authorization when he finds the risk of loss in shipment cannot adequately be guarded against by the facilities of the United States or adequate replacement cannot be provided. Id.

Instead of relying on private companies to insure against losses of government-owned valuables in transit, which was then the practice, the Act created a fund for the payment of claims resulting from such loss or damage in shipment. 40 U.S.C. Sec. 722. The Act also authorizes the Secretary of the Treasury and the United States Postal Service to prescribe governmentwide regulations pertaining to the shipment of "valuables." 40 U.S.C. Sec. 721.

In summary, the voucher for excess declared value charges should not be approved for payment if, under the Act, the nature of the articles being shipped qualify as "valuables." The Act would prohibit the payment of such charges unless the Secretary specifically authorizes such payments. Instead claims for any loss, destruction or damage to valuables shipped in accordance with the regulations implemented under the Act may be paid out of the Act's Fund.

If a given risk is beyond the scope of the Act, for example, if the items in question are not within the definition of valuables or if the particular movement does not qualify as a shipment, then the self- insurance rule and its exceptions still apply. See, e.g., 17 Comp.Gen. 419 (1937). Thus, as a general proposition, if the articles being shipped do not qualify as "valuables," the Coast Guard may not pay the voucher for excess declared value fees.

There are, as we noted earlier, limited exceptions to the rule. Thus, we have not raised objections to the use of appropriated funds to purchase insurance where an agency can demonstrate that:

-- the economy sought by self-insurance would be defeated; or

-- sound business practice indicates that a savings can be effected; or

-- services or benefits not otherwise available can be obtained by purchasing insurance.

55 Comp.Gen. 1321 (1976). Here, however, the record neither contains, nor makes apparent the basis for, such a finding. Thus, absent an affirmative finding

consistent with the above criteria, the Coast Guard may not pay the excess declared value fees.

1. We note that an indivisible part of the basic service charge covers the automatic declaration of value and offends neither the self-insurance rule nor the Government Losses in Shipment Act described in this opinion. See 34 Comp.Gen. 175 (1954) and 17 Comp.Gen. 741 (1938).

2. The Secretary of the Treasury, pursuant to his authority under the Act, has declared, inter alia, money of the United States or other countries, securities and other instruments or documents, precious metals, works of artistic or historical value, to be "valuable" for purposes of the Act. See 31 C.F.R. Sec. 362.1.