

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 3, 2004

GSBCA 16254-RATE

In the Matter of SERVICE BY AIR, INC.

Bruce L. Wald, Jeffrey B. Rose, and Inez K. Tremain of Tishler & Wald, Ltd., Chicago, IL, appearing for Claimant.

James F. Fitzgerald, Director, Audit Division, Office of Transportation and Property Management, Federal Supply Service, Washington, DC, appearing for General Services Administration.

Amy Kiger Crotts and Mark Langstein, Office of General Counsel, Department of Commerce, Washington, DC, appearing for Department of Commerce.

DANIELS, Board Judge (Chairman).

Service By Air, Inc. (SBA) was engaged by the Department of Commerce's Bureau of the Census to provide freight forwarding services for that Bureau in conjunction with the 2000 Census. In auditing the Bureau's payments to Service By Air, the General Services Administration (GSA) concluded that the Bureau should have paid \$1,789,777.87, rather than the \$4,244,874.22 which it actually paid. GSA issued to Service By Air more than 1800 notices of overcharge, in the total amount of \$2,455,096.35, regarding these payments.

The case has now been settled, due to hard work, careful analysis, and admirable cooperation by all concerned. Counsel for Service By Air organized the claimant's presentation in a way which greatly facilitated review. They grouped the alleged overcharges by subject, explained the claimant's position on each of those matters, and submitted meticulous documentation which detailed the relationship between specific allegations and the various topics. Census Bureau managers and counsel for the Department of Commerce responded by analyzing Service By Air's material with precision and common sense, openly acknowledging errors they had made while under pressure to have materials shipped promptly and proposing sensible means of correcting those mistakes. GSA Audit Division managers and counsel reflected on the materials submitted by both Service By Air and Census and Commerce and modified GSA's initial position. After the presiding judge made informal comments, suggesting that the parties discuss settlement based on the general principles and assessments of facts he expressed, all parties worked cooperatively toward a

voluntary resolution of the case. In particular, GSA showed great reasonableness in reaching a settlement.

On November 2, 2004, Service By Air submitted to the Board a motion to dismiss the case and a settlement agreement and release signed by representatives of both Service By Air and GSA. The settlement agreement provides for the payment by Service By Air to GSA of \$186,113.71. This sum is actually less than the total amount Service By Air had earlier agreed to pay; the difference between the two amounts has already been offset by the Government against invoices presented by Service By Air for freight forwarding services on shipments for other agencies.

The motion is granted. The case is dismissed.

STEPHEN M. DANIELS
Board Judge