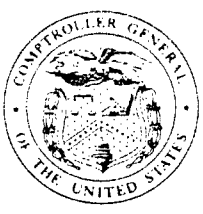


Mr. Klemen

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**DECISION**



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

FILE: B-201635

DATE: February 25, 1981

MATTER OF: Nordair Ltd.

**DIGEST:**

1. Claim based on 12 invoices for air transportation and warehousing services provided under Air Force contract may not be considered since services under invoices were performed more than 6 years before claim was received by General Accounting Office. Therefore, 31 U.S.C. § 71a (1976) prevents consideration of claim.
2. Claim based on three invoices for similar services is denied since: (1) first invoice evidences claim against private party, not Government; (2) copy of second invoice has not been submitted and record does not show any other documentation to support payment of claimed amount; and (3) third invoice evidences fuel charge which was cost to contractor, not Government.

[Claim

On November 7, 1979, our Office received a claim for \$6,699.22 from Nordair Ltd. for the payment of 15 invoices dating back to 1972 and 1973 for air transportation and warehousing services provided to the Air Force.]

On November 13, 1980, our Claims Group informed Nordair that the claimed payment for 12 of the invoices (X207011, X208020, X209032, N209072, X211024, X301012, X302020, X303006, X304028, X305051, X306022, and X307013) could not be considered since the claim was received by our Office more than 6 years after the invoices' dates (all prior to September 1973); therefore, the claim for these invoices was considered to be barred by 31 U.S.C. § 71a (1976), which provides:

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"(1) Every claim or demand \* \* \* against the United States cognizable by the General Accounting Office under sections 71 and 236 of this title shall be forever barred unless such claim \* \* \* shall be received in said Office within 6 years after the date such claim first accrued \* \* \*."

Nordair has disputed the dismissal of its claim under these 12 invoices. As stated by the company:

- "1. Correspondence with U.S. organization has been exchanged since at least 1976.
2. Our claim has been acknowledged by your personnel."

Although Nordair corresponded with the Air Force before November 1979, there is no evidence showing that Nordair's claim was received by our Office prior to November 7, 1979. Further, the filing of a claim with the agency involved (in this case, the Air Force) does not toll the running of the 6-year statute of limitations, even though the delay at the agency level in forwarding the claim to our Office is the fault of the agency not the claimant; moreover, we are without authority to waive or modify the application of 31 U.S.C. § 71a. See Freddie L. Baker, B-190841, February 15, 1978. Therefore, since the services in question were actually furnished prior to September 1973, the 6-year limit was clearly exceeded, and we are barred from considering this part of the claim. See generally, Richard C. Clough, 58 Comp. Gen. 3 (1978).

Our Claims Group also denied payment for the three other invoices (X311041, TW401482, and N312020). Nordair has not specifically stated why it questions the reasons our Claims Group advanced for denying payment of these other invoices. In any event, we have reviewed the claim under these invoices.

It is our view that payment for two of these invoices was properly denied based on the rationale set forth in our Claims Group's November 13, 1980, letter to Nordair, which reads:

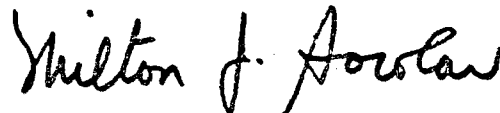
"Invoice X311041 \* \* \* is addressed to Transair, Ltd., and not an agency of the United States Government, therefore, we cannot consider payment of this invoice. \* \* \* [Moreover], the file does not contain a copy of [invoice TW401482] or any other documentation to support a claim for payment of this invoice, therefore, we must disallow your claim for payment of this invoice."

As to invoice N312020, dated December 5, 1973, for \$93.10 of fuel purchased at Frobisher Bay, Canada, the Air Force apparently denied payment for this charge under provision 2, section "J," of the contract, which reads:

"To the extent required by Rule 46 of the Contractor's CTC (A) Charter Tariff, the contractor shall be responsible for its own requirements for gasoline and oil at its own expense except at Saglek Air Station. At Saglek Air Station, the contractor may purchase arctic diesel fuel from the Air Force."

Under this provision, therefore, Nordair was apparently responsible, at its own expense, for fuel needed to perform the services; consequently, this fuel charge to the Air Force was properly denied.

Claim dismissed in part and denied in part.



For The Comptroller General  
of the United States