

JUL 12 2005

GSA Office of the Chief Acquisition Officer

MEMORANDUM FOR JAY SPURR  
ACTING DIRECTOR  
ASSET MANAGEMENT POLICY FORMULATION

FROM: (MTA) [~  
(~. ~TEFANO, DIRECTOR  
REGULATORY AND FEDERAL ASSISTANCE  
PUBLICATIONS DIVISION (VIP)  
Subject: FAR Case 2005-102-1, Transportation and Management,  
Transportation Payment and Audit

Attached are comments received on the subject FAR case published at 70 FR 23078; May 4, 2005; The comment closing date was July 5, 2005.

<u>Response</u> Number	<u>Date</u> Received	<u>Comment</u> Date	<u>Commenter</u>
2005-102-1-1	05/10/05	05/10/05	Department of State
2005-102-1-2	06/01/05	06/1/05	IRS
2005-102-1-3	06/07/05	06/07/05	Department of State
2005-102-1-4	06/28/05	06/28/05	USDANikki Beaty
2005-102-1-5	06/29/05	06/29/05	FAA
2005-102-1-6	07/05/05	07/05/05	ATA
2005-102-1-7	07/05/05	07/05/05	UPS Supply Chain Solutions
2005-102-1-8	07/05/05	07/05/05	Lesley E. Oden Retired Federal Employee

Attachments

2005-102-1-1



..Roque. Luis A"  
<RoqueLA@state.gov>

05/10/2005 12:16 PM

To: "fmrcase.2005-1 02-1@gsa.gov" <fmrcase.2005-1 02-1@gsa.gov>  
cc: "elizabeth.allison@gsa.gov" <elizabeth.allison@gsa.gov>  
Subject: FMR case 2005-1002

Dear Sir/ Madame:

The Transportation and Travel Management Division, u.s. Department of State provides the following comments:

102-117.365 What authorization do I need to procure transportation or transportation services?

(a) The head of the agency or someone delegated that authority must grant the employee or the position the authority, in writing, to obligate Government funds using rate tenders to procure transportation or transportation services for that u.s. Government agency or agency component.

(b) Transportation managers, acquiring transportation for one-time- only shipments utilizing procurements other than the Federal Acquisition Regulation (48 CFR Chapter 1) or a rate tender, must have the authority to commit Government funds which may be delegated by person or position. The delegated authority must be in writing.

(c) This authority must be posted where anyone may see that the (employee) position incumbent is an experienced and trained transportation manager with the authority to commit Government funds.

Please do not hesitate to contact me if you have any questions. A response to our comments is appreciated.

Luis A. Roque  
Chief Transportation Management Branch Transportation  
and Travel Management Division u.s. Department of  
State  
Phone 202-647-3718 Fax 202-647-5396  
Email: RoqueLA@state.gov

06/0112005



Subject: FMR case 2005-102-1

We at the IRS commend the efforts of GSA to upgrade the quality of civilian Government Traffic and Transportation Managers by requiring written authorization to commit Government funds. While we believe our present management systems are adequate and make these changes unnecessary, our comments from IRS/Distribution Requirements Branch/Postal and Transport Policy Section are intended to support this change in a way that will benefit our agency with the least disruption to our current practices, internal customers, and TSPs.

1) How is the distinction to be made between employees with "full time responsibilities as a transportation manager" and those employees with "transportation as an ancillary duty? Who will make that determination? Is this a grade level issue? Is this a position classification issue?

Position descriptions have become more general in recent years and often include several potential duties rather than identifying the actual emphasis of a particular position. Management Analysts, Financial Analysts, and Supply Management Specialists are three examples. Unless an employee is classified as a Transportation Specialist, Traffic Manager or similar specific job title, it is unlikely that Transportation, Travel or Traffic Management is listed as a full time responsibility even though it could be. Should *the* duties of an employee who is a full time transportation or traffic manager, but who's position description lists several other potential uses of his/her time, be required to fulfill the 80 hour or the 40 hour training requirement? If possible, this decision should be made by each agency,

2) Will there be standard format for issuing "written authorization" and "proper authority to obligate funds"? Should the authorization indicate a specific title for the person being so authorized, i.e., "Certified Traffic/Transportation/Travel Officer", or "Certified Transportation Payment and Audit Manager" or simply "Traffic Manager", "Relocation Manager" or "Transportation Manager?" Could there be a provision to "grandfather" this authority to persons with a specified number of years experience in this role, i.e., 10 years, with a requirement for a short annual refresher?

A standard terminology would help persons in this category to become identified as having an expertise in this field. Those who have worked in Government Transportation or Traffic Management for several years already have likely acquired the knowledge to perform their duties within the scope of the proposed regulations. It would seem unnecessary for them to undergo extensive, possibly redundant training.

3) Will the authorization be in the form of a "warrant" similar to a Contracting Officer? If so, will these regulations have the effect of giving the "Contracts and Procurement Office" control of the Traffic, Travel and Transportation Management functions?

Under present procurement regulations a Contracting Officer is "Warranted" to commit funds. The Warrant is issued by the Senior Procurement Executive. Since only "Procurement" is authorized to issue warrants, this would seem to place the Travel and Transportation Management functions under the control of Procurement. This would possibly result in a very different environment for the procurement of transportation services. The tendency of Procurement might be to favor the more structured and formal FAR over the more flexible freight tender process to obtain transportation services. This change may not be in the best interests of the Government because it could severely limit the flexibility and responsiveness of the Traffic Manager, reduce the options available and increase the costs and response times to our customers within the agency. To resolve this potential defect in the proposed rule GSA could clearly specify that freight tenders are the preferred method for obtaining transportation services for the Government. .

4) Is there a defined distinction between Transportation managers and users of our transportation systems/tenders? Does the proposed regulation infer that all field warehouse shippers, printing specialists specifying FOEL, Dootinalion GontraGl torm!5, ffinilrooffi t:ionlractor~ or GovcrlllllCmt employees u51ng UP5 8/0) me occasional bill of lading, property analysts shipping furniture, or field employees using a Federal Express or Next Day UPS drop box on a daily basis, etc ... be considered as having at least "ancillary duties" and be required to have 40 hours of formal training, and a written authorization?

2005-102-1-2

It seems unreasonable (and very expensive) to require 40 hours of training for all of these classes of employees who are not managers of transportation, but simply users of the services set up by the Transportation or Traffic Manager. Some of these services are purchased locally, and anyone using UPS or FedEx is committing Government funds, but based on the agency-wide policies on carrier selection and shipping procedures set up by the Transportation Manager(s). These classes of users should be exempted from the 40 hours training required of those with "ancillary duties."

5) Is there an unwritten intent for all procurement of transportation services to fall under the auspices of the FAR to the exclusion of the specific authority granted in 49 USC 10721 or 13712 for use of rate tenders? Will these regulations give the "Contract and Procurement Office" control of the Traffic, Travel and Transportation Management functions?

Rate tenders give travel and transportation managers the ability to respond quickly to their customers' needs and choose the best value for the Government on a somewhat informal basis without the inflexibilities and time constraints often imposed by the FAR. These laws resulted from Congressional recognition that procurement of Government transportation is a unique arena and should not be fettered by the formal regulatory environment found in purchasing other goods and services by Government. As stated in a related Question 3, GSA could clearly specify that freight tenders are the preferred method for obtaining transportation services for the Government. .

6) Will there be a phased implementation period for the training requirements?

If implemented, the training mandated by these regulations will certainly be an "unfunded mandate." Depending on the answer to 4) above regarding the scope of training and numbers of employees to be trained, the expense of this effort could be substantial in both monetary terms and time away from duties. We suggest a three year implementation period to alleviate this problem.

Bill Bracken, Supply Management Specialist  
IRS Postal and Transport Policy, Dallas, TX  
(972) 308-1932 bill.c.bracken@irs.gov



"Brennan, Edward J"  
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v>

06/07/2005 04:26 PM

To: "fmrcase.2005-1 02-1@gsa.gov" <fmrcase.2005-1 02-1 @gsa.gov>  
cc: "Roque, Luis A" <RoqueLA@state.gov>, "Hartman, Steven G"  
<HartmanSG2@state.gov>, "Gibson, Ann S" <GibsonAS@state.gov>,  
"Keil, Rodolfo F" <KeilRF@state.gov>, "McCinnis, Sara K"  
Subject: **FM R Case 2005-102-1**

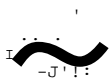
In order to authorize the obligation of funds to transportation service providers, the Department of State has relied on delegation of authority from the Assistant Secretary for Administration to incumbents of various positions to sign Government Bills of Lading. For more than 30 years, the Department has found that this delegation by position has been sufficient for our needs. However, in the case of domestic transportation managers advancing to delegation by name supported by a posted letter of delegation would allow us to improve internal controls on the major portion of our transportation budget. Future refinement of the FMR to include continuing education would strengthen the Department's transportation management team even more.

Overseas, delegation by name presents a much more difficult scenario with less well defined gains. Each year, the Department adds to its overseas management staff some 80 to 100 new General Services Officers (GSO) who, as a minor part of their portfolios at embassies and consulates, manage transportation at post. Delegation by name for overseas managers would require that the Department maintain a continuous process to keep over 300 delegations active. When the requirement of monitoring the training status of and supplying updated authorizations to 300 overseas officers who obtain transportation as part of their jobs is taken into account, delegation by name would be a significant administrative burden. The Department believes that GSOs have sufficient training (The GSO course at the Foreign Service Institute lasts 10 weeks including a week of transportation topics) that the interests of the Government would be well served by retaining reliance on delegation by position for General Services Officers.

The Department does have a few transportation specific offices overseas where transportation is essentially the entirety of the manager's work. Here, the Department would insist that the incumbent have a delegation of authority by name.

We, therefore, suggest that the final rule allow agencies to use delegation of authority by position overseas when this method is advantageous to the Government.

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"Beaty, Vikki"  
<VikkLBeaty@fsis.usda.  
gOY>

To: "fmrcase.2005-1 02-1 @gsa.gov" <fmrcase.2005-1 02-1@gsa.gov>  
cc: "Wissman, Mary" <Mary.Wissman@fsis.usda.gov>  
Subject: Federal Register Notice 41 CFR Parts 102-117 and 102-118 (FMR cas e  
2005-102-1 )

06/28/2005 04:03 PM

Delegation of authority and an appointment letter is a good idea, to ensure agency support and authorization of contracting accomplished by the transportation manager. Contracting Officers are issued warrants, dependent upon the level of commitment afforded.

The training requirement is a good idea for those who are new in contracting for movement services, perhaps less than 5 years. Refresher training or training seminars may be offered those who have been performing these requirements for longer periods, but should be voluntary. Those who have been performing for many years know what to do and should be grand-fathered into this new training requirement.

Perhaps certification standards would address certification of those grand-fathered in or re-certification every 7 years.

Additionally, those certified or grand-fathered, should carry this certification with them as an individual skill, transferred with them in the event they transfer to a new agency, as a position related experience. The agency delegation of authority and appointment letter is cancelled for the aforementioned, and a new letter issued to the replacement. The gaining agency may issue a delegation of authority and appointment letter to the individual, should the transportation requirement exist.

Vikki S. Beaty  
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"Public Service is not just a job; it is an act of citizenship."

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Agency:

Title: Federal Management Regulation; Transportation and Management, Transportation Payment and Audit  
GENERAL SERVICES ADMINISTRATION

Subject Category: Federal Management Regulations: Transportation management and transportation

payment and audit-- Transportation or transportation services procurement; written authorization requirement

Docket ID: RIN 3090-AI08

CFR Citation: 41 CFR 102-117

Published: May 04, 2005

Comments Due: July 05, 2005

Phase: PROPOSED RULES

Your comment has been sent. To verify that this agency has received your comment, please contact the agency directly. If you wish to retain a copy of your comment, print out a copy of this document for you

Please note your REGULATIONS.GOV number.

Regulations.gov #: EREG - 1 Submitted Jun 29, 2005

Author: Mr. Ivan Thomas

Organization: Federal Aviation Administration

Mailing Address:

Attached Files:

Comment: Will there be a minimum shipment cost established that would not require written authorization for the transportation manager to obligate funds for transportation services? There are many individuals that use FedEx, UPS, etc to schedule small package shipments. Will individuals that schedule small package shipments be included in the proposed rule change?

2005-102-1-6



"Bill Wanamaker"  
<BWanamak@trucking.org>

07/05/2005 04:47 PM

To: fmrcase.2005-1 02-1 @gsa.gov  
cc:  
Subject: AT A Comments to Docket

Dear Sir or Madam:

Please find attached herewith the comments of the American Trucking Associations for FMR case 2005-102-1. I would appreciate your reply to confirm receipt. Also, as the nation's premier trade association representing America's motor carriers, we stand ready to provide additional assistance and collaboration as may be appropriate.

Sincerely,  
Bill Wanamaker



*V Safe Speeds Save Lives*

Bill Wanamaker  
Director, Government Traffic & Security Operations  
*American Trucking Associations, Inc.*  
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~



2005-102-1



AMERICAN  
TRUCKING  
ASSOCIATIONS

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July 5, 2005

General Services Administration  
Regulatory Secretariat (VIR)  
1800 F Street, NW  
Room 4035 - ATTN: Laurieann Durarte  
Washington, DC 20405'

Via: e-mail to: [fmrcase.2005-102-1@flsa.gov](mailto:fmrcase.2005-102-1@flsa.gov)

Re: Certification and Training of Federal Employees acting as Transportation Managers (TOs). Reference *Federal Register* of May 4, 2005, pages 23078 through 23080. *Federal Management Regulation (EMR) Case 2005-102-1*.

Dear Sir or Madam:

The American Trucking Associations, Inc. ("ATA") is pleased to submit the following comments in response to the notice of proposed rulemaking (NPRM) designated, "Federal Management Regulation Case 2005-102-1" regarding training and certification of federal agency employees who act as Transportation Managers (TMs). The motor carrier industry recognizes the wisdom of, and applauds the General Services Administration (GSA) for its efforts to train TMs; this should result in the enhancement of their ability to make prudent choices on behalf America's taxpayers when procuring freight services from carriers of any mode. Better understanding of the multimodal freight carrier industry should not only make TMs smart purchasers of freight services, but their increased professionalism should also result in carriers finding it easier to do business with government agencies. Carriers' best customers are freight-educated customers.

After examining the May 4 NPRM, motor carriers comprising the ATA have assessed the proposed rule, and compared it to their experiences with services provided via tenders and One-Time-Only (OTO)<sup>2</sup> ordering and compensation mechanisms. Based on our collective industry analysis, we have identified several concerns that need to be

<sup>1</sup> ATA is a federated federation of motor carriers, state trucking associations from all 50 states, and national trucking conferences created to promote and advance the safety productivity, security and related interests of the trucking industry. Its membership includes more than 2,000 trucking companies and industry suppliers of equipment and services. Directly and through its affiliated organizations, ATA encompasses more than 34,000 companies and every type and class of motor carrier operation, and has a vital interest in issues relating to the procurement of freight services by all federal agencies.

<sup>2</sup> Also known as "spot bids."

2005-1027-16

addressed in order for GSA's laudable objectives to succeed. These concerns are well articulated in the comments submitted by UPS, a member of the ATA discussion group assessing the NPRM. Therefore, AT A adopts those comments by reference as representing the view of the motor carrier industry.

In addition to industry's adoption of the UPS comments, it is the strong view of industry that in cases when any agency, including GSA's Auditing Department, may determine that a federal employee ordering freight services was not a properly certified TM, authorized to obligate the federal government to pay for freight services, that such matters are the domain and responsibility of the beneficial federal agency and should not adversely or unfairly affect the motor carrier that provided the services. In such cases where an agency decides that the TM was not properly certified according to the new and final NPRM terms, it is a reality that the agency might not pay the carrier, or if they did, that the agency may demand that the carrier refund the money they earned by providing the service to government in good faith.

This poses real problems for carriers who are faced with deciding whether to take the non-reimbursed payment as a loss, or demand payment from the TM personally. Industry believes that GSA will agree that both choices are unacceptable. Taking a loss offends just and fair treatment; for a carrier to levy charges against a TM personally is a terrible position in which to force America's private taxpaying sector because they know that the same TM will most likely continue in federal employment and be making countless decisions in the future about which companies will haul given freight. Government must be responsible for its employees just as America's private sector has no choice but to be responsible for theirs. Therefore, industry respectfully requests that GSA's final rule include the following facilitating language:

*In each instance when a federal employee, or other agent of the government, acts on behalf of the government by ordering or making payment for transportation or transportation services, and such person is deemed not to possess the requisite authorization or the required experience and training, the government shall pay the transportation service provider for the services rendered, and subsequently determine whether the agency will seek restitution from the employee or agent.*

There are several mutual benefits from this policy:

- . Transportation Service Providers (TSPs) faithfully providing commercial freight services get paid for it. . All the concerns outlined in the referenced UPS comments are rendered moot. . The consequences for managing TMs and their training resides squarely with the same executives empowered to improve management practices and to assure the TMs are properly trained, and that other employees know they are not authorized to obligate the government for said services, and that they may be required to reimburse their employers for transgressing this policy.

2005-02-1-6

- . By implementing these incentives, GSA's objective, to improve the professionalism and efficiency of TMs, and to enhance government's level of responsibility to taxpayers, is certain to succeed.
- . GSA can better avail itself of "Best Value" carriers.

#### Best Value

The NPRM states, *"As transportation managers, employees are entrusted to spend money allocated to their agency effectively and efficiently. Employees must spend those funds wisely by continually seeking for required transportation services at the lowest cost and the best value to the Government."* [emphasis added]

The term best value is defined in the *Federal Acquisition Regulations* at FAR 2.101 :

*"Best value means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement."*

Additionally, the Department of Defense official policy states,

*"The acquisition of all transportation and related services shall be accomplished using best commercial practices and 'best value' evaluation procedures, and shall include performance-based specifications, as applicable. ,,3*

Many of AT A's members have decades of experience in providing motor carrier service to federal agencies, and based on this experience, it is the collective view that the terms "best value" and "lowest cost" are often in conflict with each other. While the term "lowest cost" could not be simpler to understand ("\$.75 per mile is less than \$.76 per mile), "best value" eludes many professionals in the supply chain, mostly owing to lack of understanding what it means during the freight-ordering decision process. Industry submits that "best value" is more akin to lowest total systemic cost, end-to-end. This means that shippers and TMs consider more factors than only the rate the carrier charges for the transportation service. Such factors may include:

- Reliability of service record
- . Ability to pick up sooner than later (thus clearing the TM's dock)
- . On-line package tracking services made available to shipper
- . Characteristics of a carrier's standard equipment (trucks and trailers) as compared to its competitors
- . Relative ease of conducting transactions
- . Scenarios where geography of shipping facility and proximity of carrier terminals result in different carrier service schedules that may benefit that shipper, e.g. when a carrier's

3 Memorandum for Secretaries of the Military Departments. et. al., January 15, 1998 authored by the Under Secretary of Defense for Acquisition and Logistics Policy, U.S. Department of Defense.

200-102-7-16

typical pickup or delivery times coincide better with the facility employee shift schedules, thus reducing incidental overtime to load/unload freight.

- . Other factors unique to the experience, observations and analysis of the TM at their specific facility

Any of these factors or others can affect the systemic, end-to-end cost to government. Industry believes that each TM is in the best position to know what represents "best value" for their specific shipments, at their specific facility, and their particular cargohandling and tracking requirements. Often, the total overall cost to government can be lower when other than the lowest cost carrier is chosen because the difference in the charge between the two carriers is offset (or more than offset) when all factors are taken into account. It is the view of industry that GSA's training and certification of TMs should make them aware that "lowest cost" does not automatically equate to "best value." Moreover, GSA's TM training curricula should highlight all the activities and functions that comprise the supply chain, from origin to destination, and their associated costs. This becomes an excellent foundation on which to assess best value, and discern the difference between that and lowest cost for both civilian and military agencies.

Again, industry appreciates this opportunity to work collaboratively with its government partners in devising superior joint solutions, and we respectfully reiterate our request for GSA to adopt the *facilitating language* in the indented paragraph on page 2. For further discussion, please contact me at (703) 838-1997.

Sincerely,



Bill Wanamaker  
Director  
Government Traffic and Security Policy  
American Trucking Associations  
Alexandria, VA 22314

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UPS Supply Chain Solutions  
12380 Morris Road Alpharetta,  
GA 30005

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July 5, 2005

General Services Administration  
Regulatory Secretariat (VIR)  
1800 F Street, N.W.  
Room 4035  
Washington, D.C. 20405

**Attention: Laurieann Duarte**

**Regarding: FMR Case 2005-102-1**

Dear Sir or Madam:

UPS Supply Chain Solutions, Inc. (UPS-SCS) submits these comments regarding the proposal of the General Services Administration (GSA) to amend the Federal Management Regulation (FMR) to add new requirements for federal transportation managers acquiring and authorizing payment for transportation and/or transportation services.

UPS-SCS, a wholly-owned subsidiary of United Parcel Service Co., is a market leader in supply chain management. Our services encompass logistics and distribution, international trade services, supply chain consulting, and transportation and freight services. Agencies of the U.S. Government are among our most important customers.

GSA's proposed rule, as drafted, is too ambiguous and raises too many questions for anyone to take a position supporting or opposing it at this time. Among other things, there is no indication that GSA has cleared this proposal with the federal agencies that order transportation and transportation services, especially the Department of Defense, or that GSA has the authority to issue a rule on its own. Our very real concern is that unless the rule is coordinated and clarified the GSA Transportation Audit Division will begin issuing overcharge notices and offsetting payments to transportation service providers such as UPS-SCS on the ground that the transportation or transportation services provided were not ordered by a properly authorized federal employee or that the ordering individual did not have the required experience and training.

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From our industry perspective, each of the points listed in the attachment to this letter needs to be reconsidered and addressed by GSA. Following that, because this matter is so important to the transportation industry that serves the federal Government, we submit that GSA should republish a revised proposal for further review and comment.

Should you have any questions or follow-up, the UPS-SCS point of contact is Eva Yablonsky at our office.

Respectfully submitted,

R~ie; ~  
Senior Vice President

Cc (w/enc1.): Ralph L. Kissick  
Zuckert, Scoutt & Rasenberger, L.L.P.  
Washington, D.C.

FMR CASE 2005-102-1  
 COMMENTS OF UPS SUPPLY CHAIN SOLUTIONS, INC.

Notes:

- i) References are keyed to GSA's proposed changes to the Federal Management Regulation, 41 CFR §§ 102-117 and 102-118, as published in the Federal Register of May 4, 2005, 70 F.R. 23079..
- ii) The term "transportation" as used below includes both transportation and transportation services.

1. § 102-117.365(a): How is "head of the agency" defined for purposes of identifying who can authorize, directly or through delegated authority, transportation managers to use rate tenders to procure transportation?
  - a. Is it only the top official of a federal department or agency (i.e., the Administrator of GSA)?
  - b. Does it also include the head of a sub-department or agency (i.e., the Commissioner of the Federal Supply Service), or the head of a subsidiary office (i.e., the Commissioner of the FSS Office of Transportation and Property Management), or the head of a lesser office with transportation procurement responsibilities (i.e., the Director of the Travel and Transportation Management Division within the FSS Office of Transportation and Property Management)? How far down the chain of organization can this extend?
  
2. § 102-117.365(b): Who is empowered to authorize, directly or through delegated authority, transportation managers to acquire transportation for one-time-only (OTO) shipments by means other than a FAR procurement or rate tender? Is the answer the same as or different than the answer to question # 1 ?
  - a. Have GSA and the federal departments and agencies that order OTO shipments agreed on a single standard form for ordering these shipments? If not, how can a transportation service provider (TSP) assure itself that GSA will accept an OTO order and payment as properly authorized?
  
3. §§ 102-117.365(a) and (b): Since more than one Government representative often is involved in a single transportation transaction (i.e., one person may make a shipment pickup request, a second person may handle the bill of lading or shipment documents, and a third person at the destination may direct extra services such as redirecting the shipment to a secondary location), will every person involved be considered a transportation manager required to have proper written authorization?
  - a. How will a TSP know whether all such Government personnel have the requisite authority?
  
4. § 102-117.365(c): What form and content must the written authority to procure transportation have in order to be acceptable and relied upon?
  - a. Will a letter suffice or is something more formal required? Is a document without a signature acceptable (i.e., an email)?



- b. Must the authorization expressly state that the identified individual is authorized as a transportation manager to obligate Government funds? Must it specifically state that the individual has the required (i) experience and (ii) training? What else if anything must be included?
- c. Does the authorization have to expressly state that the identified individual has the authority to acquire transportation using (i) rate tenders and (ii) OTO orders? Must specific rate tenders or OTO shipments be referenced in order for the authorization to be valid?
5. § 102-117.365(c): Since transportation often is ordered by telephone or electronic data interchange especially for OTO shipments where delivery time can be of the essence how can TSPs verify that the ordering individual has the requisite authority?
- a. Has consideration been given to including the names of the appropriate authorized transportation manager(s) in PowerTrack under the trading partner agreement (TP A) among the procuring activity the relevant TSP and US Bank as a means to permit TSPs to determine which transportation managers have the requisite authority to procure transportation via rate tenders and OTO orders??
- b. Can GSA coordinate this with US Bank and PowerTrack and then modify its proposed rule appropriately?
6. § 102-117.365(c): Maya TSP accept at face value the posted authorization of a transportation manager to acquire transportation without further investigation as to its validity?
- a. What are the consequences to a TSP if it relies in good faith on a transportation manager being properly authorized but subsequently GSA determines that the transportation manager lacks such authorization? How can the TSP avoid such a situation? What recourse will the TSP have if it occurs?
- b. Where or in what manner is the authorization to be posted? How is it to be posted if the transportation is ordered electronically? What is required if the transportation is ordered by telephone?
8. §§ 102.117.365(a), (b) **and** (c): Once proper authorization to procure transportation is conferred on a transportation manager are there limits to the duration of the authorization?
- a. If a transportation manager receives proper authorization is that authorization valid indefinitely? Will it be valid unless affirmatively revoked; and if so who must revoke the authority? Will there be some period of time after which a once valid authorization can no longer be relied upon? How will TSPs know this?
8. § 102.117-370(a): What is the definition of a "Federal employee" for purposes of the proposed rule?
- a. Are military personnel considered to be Federal employees? Or does the term Federal employee only include civil servants?



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b. Can the authority to acquire transportation be conferred on a contractor acting as a transportation manager for a federal department or agency?

9. § 102-117.370(c): Must a full-time transportation manager demonstrate greater knowledge and experience than that specified as a minimum for a transportation manager assigned transportation management as an ancillary duty? If so, what additional criteria apply?

a. Are TSP's required to make a distinction between full-time transportation managers and ancillary-duty transportation managers? If so, (i) for what purpose, and (ii) how is that to be accomplished?

10. §§ 102-117.375: Once a transportation manager has the required experience and training, will the transportation manager be qualified indefinitely? Or will requalification be required at some point or after some time?

11. § 102-117.380(a) and (b): How will TSP's know whether a transportation manager has the required experience and training?

a. Will the posted authorization of a transportation manager to procure transportation (§ 102-117.365(c)) also serve as confirmation that the transportation manager has the required experience and training? Or must a TSP ask to see a training certificate and a supervisor's written acknowledgment of experience for each transportation manager? If so, may these documents be accepted at face value by the TSP without further investigation as to their validity?

b. What are the consequences to a TSP if it relies in good faith on a transportation manager being properly qualified, but subsequently GSA determines that the transportation manager lacks either the required experience or training? How can the TSP avoid that situation? What recourse will the TSP have if it occurs?

12. § 102-117.380 (a) and (b): When will the new experience and training requirements for transportation managers take effect?

(a) Since it may take some time for the personnel at a procuring activity to obtain the required experience and training, will the activity be permitted to use rate tenders and OTO orders to procure such services in the interim? Or must all use of rate tenders and OTO shipments be discontinued until the activity has authorized and qualified transportation managers?

13. § 102-118.350: Since virtually all transportation payments now are made electronically via PowerTrack, how can a TSP determine whether a payment has been approved by a Government representative with proper authority to obligate funds?

(a) What are the consequences for a TSP if it turns out that a payment made to it was approved by someone without the proper authority? How can the TSP avoid such a situation? What recourse does the TSP have if it occurs?



**14. General:** Is the proposed rule intended to apply to the acquisition of and payment for international transportation, as well as applying to domestic services?

**15. General:** Does GSA have the authority to issue this rule?

a. Has the proposed rule been discussed with and cleared by the federal departments and agencies that use rate tenders and OTO orders to obtain transportation, especially with the key agencies within the Department of Defense (DOD), i.e., the U.S. Transportation Command (which has been designated by DOD as the Distribution Process Owner), the Surface Deployment and Distribution Command, and the Air Mobility Command?

b. Has GSA taken into account the policy and cost implications for the federal departments and agencies to implement the rule if it is made final?

**16. General:** If the proposed rule is made final, is it GSA's position that TSP's will be responsible for policing each transportation tender or OTO shipment to ensure that every Government transportation manager and each payment person involved in ordering and/or paying for the shipment has the proper authorization and the required experience and training?

a. If so, why is that responsibility imposed on the TSP rather than the Government? If the Government has not properly authorized an individual or ensured that the individual is qualified with the required experience and training, should not the Government accept responsibility for its own personnel failures?

b. What guidance on this important issue will GSA provide its Transportation Audit Division?

2005-102-1-1



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Requiring a formal delegation of authority to perform transportation duties is an unnecessary and burdensome requirement that should not be implemented. Employees responsible for transportation activities are required by their position descriptions or job title to perform the necessary duties and in many cases this is one of many duties of the position. The delegation of authorities in a major Executive Department is too complex and burdensome to include all the lower delegations that would be required by this regulation. The delegation will not serve any purpose or improve the service being provided the Government, the civilian community or a federal employee.

102-117.365 Uses the words "obligate" and "commit" Government funds as though transportation officers were the recipients of funding authority. Transportation officers usually receive authority to place orders for transportation services from someone who has funding authority and who has established the necessity to obligate and spend Government funds. A most common occurrence of this is when an employee is authorized to relocate for the convenience of the government. The transportation officer does not obligate funds for the shipment and storage of the household goods. These funds are obligated when the employee signs the service agreement and the travel authorizing official signs the travel authorization. No further authorization is needed. The transportation officer merely arranges for the transportation service provider to accomplish the needed tasks. This may be done by either a Move Manage! ment Provider or a government employee serving as a transportation officer. Adding the additional layer of administrative actions will not provide control, only confusion and delay. If transportation officers are to independently establish obligations, they will need to be the recipient of an allotment of funds. Currently, the funding source is through the program office that needs the transportation services.

In general, this is another attempt by GSA to control and run program actions that are inherent to the administration of the Major Departments of the Government. Training and levels of delegations should be managed by the agencies and not the Administrator of the General Services Administration. While these changes could possibly produce additional income to the GSA through the industrial funding fees (IFF) and training, the benefits derived by the agencies would be less than cost effective.

These rules will not provide assistance or benefit to agencies.

Rather than issuing an "employee management regulation," suggest GSA issue a clear concise regulation on transportation rules.

Lesley E. Oden  
Retired Federal Employee