

**DEPARTMENT OF DEFENSE****Department of the Army****Problems in Tender Filing—New Policy**

**AGENCY:** Military Traffic Management Command, DOD.

**ACTION:** Notice of New Policy.

**SUMMARY:** MTMC is establishing a policy governing carrier's responsibility for tender filings. This policy gives MTMC authority to reject and correct mistakes in rate tender filings, and provides carriers with rate filing procedures for correcting mistakes in rate. This policy was published 59 FR 55460, 7 November 1994, for comments by December 15, 1994. No comments were received.

**DATES:** The new policy will be effective May 15, 1995, in all new MTMC Non-Guaranteed Traffic (GT) solicitations and all new GT solicitations advertised in the Commerce Business Daily.

**ADDRESSES:** Headquarters, Military Traffic Management Command, ATTN: MTOP-T-ND, Room 621, 5611 Columbia Pike, Falls Church, VA 22041-5050.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara McGinnis, MTOP-T-ND, (703) 756-1103.

**SUPPLEMENTARY INFORMATION:** The policy will be included as an enclosure to all future MTMC Guaranteed and Non GT freight solicitations after May 15, 1995.

**Problems in Tender Filings**

1. *Authority.* As indicated in the solicitation, the Assistant Deputy Chief of Staff for Operations-Transportation Services retains the authority to reject and correct mistakes in rate tender filings.

2. *Procedures for Filing Tenders.*a. *General.*

(1) Carriers are solely responsible to ensure tender submissions are legible and typed. Handwritten or illegibly typed submissions or submissions having typed strikeovers will be returned as being nonresponsive.

(2) If a rate(s), if applicable, is omitted, the tender submission will be returned as being nonresponsive.

(3) If a minimum charge(s), if applicable, is omitted, the tender submission will be returned as being nonresponsive. If a carrier does not want to make a minimum charge, if

applicable, that carrier must insert a "0". Tender submission will be returned as being nonresponsive for failure of carrier to insert a "0".

(4) Tenders containing material alterations shall be rejected as nonresponsive and shall be returned to the carrier.

b. *Carrier Responsibility for Tender Filings.* Carriers are solely responsible for the proper preparation, accuracy, and timely submission of their tenders. Carriers are responsible for establishing quality control procedures that will include review of tenders prior to their submission to Headquarters, Military Traffic Management Command. Tenders found to contain errors such as typographical may be granted relief based on justification in support of alleged errors.

c. *Administrative Errors.* Administrative errors which can be corrected include, but are not limited to, mistakes in the following:

(1) Carrier street address and Standard Carrier Alpha Code.

(2) Carrier telephone number.

(3) Mode, if applicable.

(4) Tender number or series.

(5) Interstate Commerce Commission, and/or intrastate operating authority certificate number.

(6) Typed name of company official authorized to submit rates, address, and telephone number. Tender submission will be returned as being nonresponsive for failure of a carrier to sign its tender.

(7) Tender and rate sheet not corresponding that can be evaluated on an equal basis with other carriers. If a rate sheet varies the material terms (e.g., change in rate qualifier, mileage groups, or minimum weights) of the solicitation so that the rates cannot be evaluated on an equal basis with other carriers, the tender submission will be returned as being nonresponsive.

(8) Failure to submit the required number of original signature copies of the rate tender.

(9) Failure of the carrier to submit a properly signed and executed Certificate of Independent Pricing with tender submission.

3. *Mistakes in Rate Filing Procedures (MIRF).*a. *General.*

(1) Carriers discovering a mistake(s) before bid closing time can correct such mistake(s) by submission of a new tender prior to closing. The last tender

received before closing governs.

Identification of a rate error(s) in a bid submission after opening may be initiated by either HQMTMC or in writing by the carrier. After opening, carriers may either withdraw or seek to correct rate error(s).

(2) Correction is allowed for clerical error(s) where the intended rate is obvious from the bid submission itself, as in the case of misplaced decimal.

(3) Correction is allowed in other cases (except in the case of a downward correction which would displace a low bidder) only if the carrier proves the mistake and the rate actually intended by providing HQMTMC (MTOP-T-N) clear and convincing written evidence. If the evidence supports the existence of the mistake, but not the rate actually intended, the carrier will be permitted to withdraw its tender (or MTMC will reject it). Carriers must submit evidence to arrive HQMTMC (MTOP-T-N) within a reasonable time after notification by MTMC of a suspected mistake.

(4) Where a downward correction would displace a low bidder, it is permitted only if the mistake and the intended rate can be determined from the solicitation and the tender itself.

b. *Evidence.* The following evidence must, at a minimum, be submitted by the carrier when the carrier seeks to correct a mistake in rate other than a clerical error(s):

(1) Original source documents pertinent to the error, including, but not limited to, working papers, spread sheets, transcription sheets, adding machine tapes, tariffs, cost data sheets, memorandum for records, written procedural guidance in determining rate levels, internal rate printouts, and other such papers which will provide a clear audit trail for tracing the mistake.

(2) Other documents deemed by the carrier to be relevant to error validation can also be used as evidence.

(3) To protect their interests, carriers are encouraged to retain original source data until it is certain that no further use for it exists.

4. *Rate Errors.* Rate regression mistakes may be considered for relief under the MIRF procedure. Correction of rate regression mistakes cannot affect other rates already in normal regression. Two examples of correctable rate regression mistakes are shown below:

*Example 1:*

Mileage	Minimum weights				
	1,000	2,000	5,000	10,000	20,000
100 or less .....	\$9.60	\$4.80	\$1.92	\$1.20	\$ .90
101 to 200 .....	9.60	4.80	1.92	1.20	.90
201 to 300 .....	14.30	7.15	2.86	3.00	1.50
301 to 400 .....	21.90	10.95	4.38	3.09	1.55

The error in the above example is the underlined rate which is not in proper rate regression for the higher minimum weight. It can be corrected without affecting the regression for the mileage groups. If the carrier intended a different rate, the carrier may seek correction under the MIRF procedure, provided that the intended rate itself falls within normal regression.

*Example 2:*

Mileage	Minimum weights				
	200	500	1,000	2,000	5,000
400 or less .....	\$400	\$160	\$100	\$30	\$24
401 to 500 .....	400	160	100	30	24
501 to 600 .....	4	160	100	30	24
601 to 700 .....	400	160	100	30	24

The error in the above example is the underlined rate which is not in proper rate regression for lower distance. It can be corrected without affecting the regression for the minimum weight groups.

**Kenneth L. Denton,**

*Army Federal Register Liaison Officer.*

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