



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Government Printing Office--Environmental Protection Agency--
Interagency Orders--Appropriations

File: B-259208

Date: March 6, 1996

DIGEST

The Environmental Protection Agency (EPA) is only liable for the publication services that authorized personnel requisitioned from the Government Printing Office (GPO). After having enlarged the publication project without first receiving the approval of authorized EPA officials, GPO cannot charge the requesting agency for the costs of the expanded project.

DECISION

This responds to the request from the General Counsel of the Government Printing Office (GPO) asking for an opinion concerning a \$304,334 bill that his agency submitted to the Environmental Protection Agency (EPA) for publication services. For the following reasons, we conclude that EPA's liability for the publication services is limited to the \$14,000 that it obligated through requisitions, and that GPO must cover the additional costs incurred.

Background

In June 1992, EPA submitted a requisition to GPO ordering an electronic publication at a total cost, as estimated by GPO, not to exceed \$9,000. According to the EPA technical representative for the project, GPO was to convert the sixteen volumes of title 40 of the Code of Federal Regulations (CFR) from its paper format to an electronic format at a GPO-estimated cost of approximately \$600 per volume. The EPA volumes of the CFR were the first of the 200 CFR volumes that GPO planned to convert. In April 1993, EPA submitted another requisition, at GPO's request, for an additional \$5000 to add graphics to the publication, committing EPA to a total of \$14,000. The GPO General Counsel states that as work under these two requisitions progressed, verbal instructions from the EPA technical representative for the project, John Richards, caused GPO to enlarge the scope of its work beyond the \$14,000 already committed. The General Counsel asserts that GPO incurred over \$300,000 in project costs because Richards "provided the impression to GPO

representatives that funding for the enlarged and evolving experimental project would be available."

Prior to the April 1993 requisition where authorized EPA officials fixed EPA's total commitment at \$14,000, the EPA Chief, Printing Management Section, in a memorandum to GPO dated November 17, 1992, identified the EPA employees who were authorized to commit the agency to printing services. The memorandum does not identify Richards as an official authorized to order printing services nor does GPO argue that Richards was given such a designation at one of the several meetings between the two agencies. According to EPA, Richards' sole function on the project was to act as a technical advisor, available to assist GPO in the use of microcomp, an electronic document format adopted by several federal agencies, to produce the electronic publication.

The EPA Associate General Counsel, Contracts, Claims and Property Division, states that EPA never had any anticipation of funding the project at a level greater than the \$14,000 that it obligated. He further asserts that even if Richards gave GPO the "impression" that additional funding would be available, the technical advisor had no authority to commit EPA appropriations to expenses exceeding the amounts in the requisitions. Richards, himself, denies that he asked GPO to enlarge the project, and states that the bill from GPO for additional work came as a "total surprise" to him.

Analysis

The agreement between EPA and GPO for the electronic publication was governed by the two GPO Standard Form 1 Printing and Binding Requisitions that EPA used to order the work. After an ordering agency certifies that it requires the services of GPO, the Public Printer is required to furnish an estimate of the cost of the services pursuant to which the ordering agency may make a requisition for performance from GPO. 44 U.S.C. § 1103. GPO must then adhere to the terms of the requisition since, as a legal matter, "[p]rinting may not be done without a special requisition . . . filed with the Public Printer." 44 U.S.C. § 1102(c).

Agencies are responsible for establishing procedures to safeguard against overexpenditures when placing or filling interagency orders for goods or services. GAO's Policy and Procedures Manual for Guidance of Federal Agencies states that "[w]hen the total cost of performance is not known in advance, costs should be estimated, and this estimated amount should constitute a ceiling on the costs that may be incurred by the performing agency without notifying, and receiving approval from, an authorized official of the requesting agency." GAO, Policy and Procedures Manual for Guidance of Federal Agencies, tit. 7, Sec. 2.4(C)(2)(b) (TS No. 7-43, May 18, 1993). In this case, EPA officials, using the GPO requisition forms, established a \$14,000 ceiling for the project. See 59 Comp. Gen. 386, 388 (1980).

Before incurring expenses exceeding the ceiling, GPO should have given EPA new cost estimates and obtained requisitions from EPA, in accordance with GPO statutes.

GPO apparently based its decision to exceed the ceiling and expand the project on comments from the project's technical advisor. The record does not establish that the technical advisor requested the additional work. Richards denies that he asked GPO to exceed the scope of the work contracted for in the EPA requisitions, and GPO has no documentation that he ordered the additional work. Even if we assume that Richards requested the additional work, EPA points out that he lacked the authority to bind the agency. In this regard, EPA is not bound by unauthorized or misleading representations of its employees, because when a government employee acts outside the scope of the authority actually held by him, those who deal with him are deemed to have notice of the limitations on his authority. 56 Comp. Gen. 131, 136 (1976). See, e.g., B-182081, Jan. 26, 1977 (GPO invoice could not be paid since the authority of the government employee to place the order had expired). Thus, although GPO presented no evidence to substantiate its assertion that Richards approved the additional work, even if we were to accept GPO's assertion, we must conclude that since Richards was not authorized to contract for printing services, he lacked the authority to commit EPA to expenditures beyond those in the requisitions.

Accordingly, since authorized EPA officials obligated a total of only \$14,000 in their requisitions for the electronic publication, the agency is not liable for the \$304,334 in additional expenses that GPO incurred. GPO should use its own appropriations to cover all costs above the amounts authorized in the EPA requisitions.

/s/ Robert P. Murphy
for Comptroller General
of the United States