

DECISION

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

FILE: B-185709

DATE: June 28, 1976

MATTER OF: Edfield Research, Inc.

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DIGEST:

1. Since GAO is not authorized to grant extraordinary contractual relief under Public Law 85-804 and implementing Executive Orders and regulations, there is no jurisdiction to consider claim denied by agency under statute so far as entitlement to relief authorized by statute is concerned.
2. Settlement Certificate disallowing claim is affirmed where appeal further confirms dispute between claimant and agency as to circumstances giving rise to claim to extent that claimant had not established merits of claim by clear and convincing evidence.

By letter dated December 7, 1975, Edfield Research, Inc. (ERI), filed an appeal from the Settlement Certificate dated May 28, 1975, of the then Transportation and Claims Division. The Certificate disallowed the firm's claim for \$4,107 which was alleged to be due for work performed during the period from January 12 through February 4, 1969, in the development of a special remote receiver system for the U.S. Army Intelligence Material Development Office (IMDO), Fort Holabird, Maryland.

ERI states that the disallowance was based on reasons which were not accurate or correct. The Certificate stated that the record indicated the existence of an irreconcilable conflict in the facts regarding the purported initial negotiations and assertions made subsequent thereto. ERI contended that IMDO instructed it to begin development of the receiver system immediately because of an urgent need and assured the firm that a formal purchase order would be issued as soon as possible. It was claimed that throughout the period in question, assurances were made that proper contract documentation would be forthcoming. Pursuant to alleged assurances and in reliance upon previous dealings with IMDO, ERI stated that it proceeded with the development of the receiver system. In this regard, ERI maintained it was requested to have five units ready by February 10, 1969, and to deliver one unit as soon as possible. In appealing the disallowance, ERI states that "No one has denied that the work was completed or that the units were not developed in accordance with exact instructions issued by the government representative, * * *."

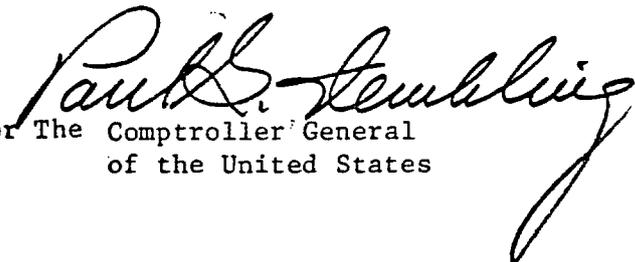
On the other hand, IMDO stated that assurances of proper contract documentation were never made and that ERI was one of several firms contacted for the purpose of providing technical proposals. Also, there was never an intention to contract with ERI which was informed that any development work was at the firm's own risk since funds were not available and its proposed price was not competitive.

The disallowance was based on (1) the absence of a contract for the work and the lack of authority and intent to make a contract by the Government employees with whom the firm dealt, and (2) the fact that authorized contracting officials of the Government had declined to ratify the unauthorized work so as to preclude recovery under a quantum valebant or quantum meruit basis.

ERI's appeal requests allowance of the claim in accordance with Public Law 85-804. The record indicates that the agency denied relief to ERI under that statute. Our Office is not authorized by Public Law 85-804 and implementing Executive Orders and regulations to grant extraordinary contractual relief to facilitate the national defense. Denials of claims by Government agencies under the statute are not subject to review by our Office so far as entitlement to the relief authorized by the statute is concerned. Trio Chemical Works, B-172531, August 14, 1974, 74-2 CPD 96; and Sauk Valley Mfg. Co., 54 Comp. Gen. 1031 (1975), 75-1 CPD 352. Therefore, we have no jurisdiction to consider the claim on this basis.

The ERI appeal does not add substantive material to the record upon which the claim was initially disallowed. Rather, the dispute between the firm and the agency as to the circumstances giving rise to the claim is further confirmed. In these circumstances, we conclude that the claim is of doubtful validity since the claimant has not established the merits of its claim by clear and convincing evidence. See Remcor, Inc., B-179243, July 22, 1975, 75-2 CPD 57.

Accordingly, the settlement of May 28, 1975, disallowing the claim, is affirmed.


For The Comptroller General
of the United States