

DECISION



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

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FILE: B-185499

DATE: May 19, 1976

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MATTER OF: Scan-tex Systems, Inc.

DIGEST:

Payment for marginally-punched computer forms supplied to Navy in response to unauthorized request of Government employee and to fulfill delivery order issued under GPO contract in unauthorized manner may be paid on quantum valebant basis subject to GPO consideration of ratification since Government received benefit of supplies.

The Disbursing Officer, Naval Ordnance Station, Indian Head, Maryland, has requested an advance decision as to whether payment may be made on an invoice submitted by Scan-tex Systems, Inc. (Scan-tex), under a delivery order issued pursuant to an existing Government Printing Office (GPO) contract held by another firm. Under the delivery order, as amended, Scan-tex supplied 400,000 marginally-punched computer forms to the procuring activity. The forms have been used by the agency. Scan-tex does not hold a valid GPO contract for this item.

An employee of the Naval Ordnance Station orally requested the president of Scan-tex to print the forms. After the forms were printed, the delivery order was issued. However, the employee was without contracting authority and the established small purchase procedures were not followed. There is a dispute in the record as to how the delivery order and amendment thereto signed by contracting officers were issued under a GPO contract held by another firm. However, we do not find it necessary to resolve the dispute in deciding the matter.

Here, the Government--initially through an employee without contracting authority, and subsequently under a delivery order issued to a firm without a valid contract--contracted in an

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unauthorized manner. The contractor furnished satisfactory supplies which were accepted and used by the Government. Therefore, we believe, subject to the condition discussed below, Scan-tex is entitled to be paid the reasonable value of the items delivered based on a theory of quantum valebant. RCA Corporation, B-183289, December 3, 1975; 75-2 CPD 369.

Before payment can be made based on quantum valebant, the unauthorized action must be expressly or impliedly ratified by authorized contracting officials of the Government. Jung Won Kim, B-182781, August 4, 1975, 75-2 CPD 78. Such ratification has not occurred here. Section 101-26.703 of title 41 of the Code of Federal Regulations (1975) contains the delegation of authority from the General Services Administration to the GPO to procure the type of forms involved here. GPO, therefore, has the authority to purchase these items and through the vehicle of its Government-wide contracts, permits other agencies to place delivery orders to contractors who hold such GPO contracts.

As this order was placed with a concern which did not have a GPO contract, we do not believe that contracting officials of the Navy may ratify the unauthorized action. The ratification must come from the GPO. Therefore, the matter of ratification should be referred to the GPO.

Further, our Office has been advised that the Naval Ordnance Station has taken steps to prevent a recurrence of such unauthorized procurement actions.


Deputy Comptroller General
of the United States