

6561

W.A. Wotherspoon PL I

DECISION



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

FILE: B-191476

DATE: May 31, 1978

MATTER OF: Planned Communications Services, Inc.

DIGEST:

Although procurement regulations were not complied with, amount due may be paid on quantum meruit/quantum valebat basis since record shows that Government received benefit, price is reasonable, and unauthorized action has been ratified by authorized contracting officials of Government.

An authorized certifying officer of the Commodity Futures Trading Commission (CFTC) has requested our opinion concerning the propriety of certifying for payment a voucher in the amount of \$11,157.53. This voucher represents an amount due to Planned Communications Services, Inc. (PCS), for production of a public service television spot announcement, warning of the hazards of purchasing commodity options. The contracting personnel involved did not comply with applicable procurement regulations in the procurement of this item.

Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, see United States v. Crance, 341 F.2d 161, 166 (1965), the courts and our Office have recognized that in appropriate circumstances payment may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor), or for goods furnished on a quantum valebat basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). Recognition of a right to payment on this basis, however, requires a showing (1) that the Government received a benefit and (2) that the unauthorized action has been expressly or impliedly ratified by authorized contracting officials of the Government. Defense Mapping Agency, B-183915, June 25, 1975, 75-2 CPD 15; The Singer Company, B-183878, June 20, 1975, 75-1 CPD 406; B-166439, May 2, 1969.

8-191476

The record shows that the Government received the benefit of the public service announcement. The television spot was produced on schedule and was shown 2,400 separate times. According to CFTC such usage is considerably greater than the norm for public service spots. Apparently, CFTC believes that the price represents the reasonable value of the television spot. Finally, an implied ratification may be inferred from the acceptance of the services and the recommendation that the amount be paid.

Accordingly, the voucher may be certified for payment.


Deputy Comptroller General
of the United States