

12398 D Request Proc I

DECISION



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

FILE: B-197129

DATE: December 31, 1979

MATTER OF: 1 Silver State Paving, Inc. P. 3535

DIGEST:

Payment for construction services provided by firm under contract in excess of procurement authority and which did not comply with regulations relating to labor standard provisions or Davis-Bacon wage rates may be made on quantum meruit basis since Government received benefit and unauthorized action has been implicitly ratified.

2 An authorized certifying officer of the Bureau of Land Management (BLM), United States Department of the Interior, has requested our decision regarding the propriety of paying \$2,400 claimed by Silver State Paving, Inc., for paving of a fire building lot at a BLM facility in Carson City, Nevada. 8

3 On August 20, 1979, BLM's Carson City District Office issued a purchase order in the amount of \$2,400 and Silver State Paving performed the work on September 24, 1979. After the work was performed, the Chief of the Denver Service Center, Branch of Procurement, determined that the construction work involved exceeded the amount of the District's delegated procurement authority and was procured without complying with Davis-Bacon Act wage rates or the regulations relating to labor standards provisions applicable to construction contracts in excess of \$2,000. D 3537

Where services are furnished to the Government without proper authorization, our Office has recognized that in appropriate circumstances payment may be made on a quantum meruit basis (the reasonable value of work or labor). Before a right to such payment may be recognized it must be shown that the Government has received a benefit, and that the unauthorized action has been

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expressly or impliedly ratified by an authorized contracting official of the Government. See Molitor and Grayson, B-188454, January 15, 1979, 79-1 CPD 18; Dictamatic Corporation, B-181038, May 16, 1974, 74-1 CPD 260.

The record indicates that the work was considered necessary by the District personnel, the work was accomplished according to the specifications, and the price is considered reasonable by the contracting activity. ~~The record indicates that the Government has received a benefit, and an implied ratification may be inferred from the agency's referral to our Office seeking relief for the contractor.~~ See De Loss Construction Company, B-196004, November 2, 1979, 79-2 CPD ____.

Accordingly, payment on a quantum meruit basis for the amount claimed may be allowed if otherwise proper and correct.

Milton J. Fowler

For The Comptroller General
of the United States