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DECISION



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

FILE: B-199027

DATE: July 18, 1980

MATTER OF: L. G. Black, Inc. - 4952

[Entitlement to Payment for Rug and Carpet Cleaning Services]

DIGEST:

Since Government received benefit of company's carpet-cleaning services, quantum meruit/quantum valebat recovery is permissible where purchasing agent erroneously issued order to company when he was required to use contractor on Federal Supply Schedule. However, payment is limited to amount schedule contractor would have been paid.

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The General Services Administration (GSA) has requested our decision on whether L. G. Black, Inc. (Black), is entitled to payment of invoices in the amounts of \$1,654.24 and \$1,143.50 for rug- and carpet-cleaning services.

The GSA has entered into a mandatory Federal Supply Schedule (FSS) contract for the cleaning of rugs and carpets. However, Black, which was not the schedule contractor for those services, was requested to and did clean carpets in the GSA's Washington Regional Office Building. The purchasing agent was not authorized to contract with anyone other than the contractor listed in the FSS. In any case, GSA paid the invoices in the reduced amounts of \$903.92 and \$443.10. Payment was based on the recommendation of the Buildings Manager who believed that \$405 should be deducted because it was for an area already billed and a 40-percent discount should be taken because Black gave the Government a 40-percent discount under its FSS contract for installing carpets.

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). However, the courts and our Office

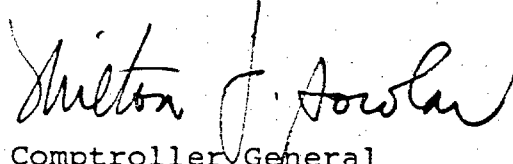
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have recognized that in appropriate circumstances, payment may be rendered on a quantum meruit basis (the reasonable value of work or labor) or for goods furnished on a quantum valebat basis (the reasonable value of goods sold and delivered), 40 Comp. Gen. 447, 451 (1961). Recognition of a right to payment on this basis, however, requires a showing that (1) the Government received a benefit and (2) an unauthorized action has expressly or impliedly been 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.

Here, the Government admits it received a benefit from Black's work although there is a dispute regarding the cleaning of 500 square yards of carpet. Black notes on the bill that it was necessary to clean one room twice. The record indicates that the double cleaning was necessary because extinguishment of a fire resulted in considerable smoke and water damage to the carpets. GSA submits no evidence to indicate that Black did not do so. Rather, the Buildings Manager apparently believed that the double billing was an error on Black's part. Without any evidence that Black did not have to clean the area twice, it seems that the Government received the benefit of the double cleaning as well as all other work included on the invoices. Ratification may be inferred from partial payment of the claim as an apparent settlement. Therefore, Black is entitled to quantum meruit/quantum valebat recovery.

Ordinarily, in a quantum meruit/quantum valebat situation, payment would be the reasonable value of the services. However, where the item could have been contracted for under an FSS contract, payment is restricted to the FSS amount. Mathew Furniture Company, B-195123, July 11, 1979, 79-2 CPD 131. It is the position of our Office that the procurement of services or supplies covered under a supply schedule contract on the open market rather than from the schedule contractor, where such procurement is due to an error on the part of the Government personnel, cannot be ratified beyond the amount that would have been payable to the schedule contractor. 52 Comp. Gen. 530 (1973); 30 id. 23 (1950).

Under the FSS contract, payment is permitted at \$0.51 per square yard for shampooing and drycleaning, less a 68-percent discount, and \$0.57 per square yard for cleaning by the soil extraction process, less a 60-percent discount. Since payment is authorized for services performed in those amounts, any necessary adjustment in the invoiced amounts should be based thereon.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For the Comptroller General
of the United States