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Mr. Golden



**DECISION**

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

FILE: B-196275

DATE: October 29, 1981

MATTER OF: Centennial Systems, Incorporated

**DIGEST:**

1. Where the Government has received notice of a valid assignment, but thereafter erroneously pays assignor, it remains liable to assignee for the amount of the erroneous payment.
2. Although assignment did not comply with requirements of the Assignment of Claims Act, the record establishes that the Government was aware of, assented to and recognized the assignment of a contract. Therefore, the Government should pay money owed under contract to assignee.

The Department of Health and Human Services (HHS) requests our decision as to the propriety of paying Centennial Systems, Incorporated's (Centennial), claim for \$8,654, arising from the apparent assignment to the firm of the proceeds from two HHS purchase orders, Nos. FPH-78-29 and RO II-79-79, under contract No. GS-005-43360.

In our view, HHS should pay Centennial's claim for \$3,258 under purchase order FPH-78-29 and the \$5,387 under purchase order RO II-79-79.

In fiscal year 1978, HHS contracted with LCS Corporation (LCS) for the lease of word processing equipment for its New York regional office. In July of 1978, LCS sold the equipment to Centennial and assigned the remaining proceeds of its contract lease with HHS under purchase order No. FPH-78-29 to Centennial.

Under this agreement, Centennial leased back all the purchased equipment to LCS, with the understanding that this equipment would be subleased to the Government. The parties agreed that all proceeds due LCS under the LCS-Government leases would be assigned to

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Centennial, and that LCS would issue the necessary Notices of Assignment for subsequent orders to effect the assignment of orders under the Assignment of Claims Act (Act), 31 U.S.C. § 203 (1976), 41 U.S.C. § 15 (1976). Centennial or its assignee was to receive all proceeds from all orders during the period involved here. In exchange for financing the leases, American Security Bank (ASB) was to receive the lease rental proceeds at issue here. The GAO has approved a similar lease-financing arrangement in Alanthus Peripherals Incorporated, B-178674, August 1, 1974, 74-2 CPD 71. In that decision, an assignment of lease payments (under certain ADPE leases) to a lease-financing company which purchased title to the underlying equipment was recognized since the purchaser could be regarded as a "financing institution" under the Act.

The notice of assignment was served on the contracting officer and the assignment was acknowledged by the contracting officer in writing. However, ASB was not paid the rental for August and September of 1978. Apparently, the rental was paid to LCS instead.

For fiscal year 1979, beginning October 1, 1978, HHS renewed its leasing agreement with LCS under the same contract number, but with a new purchase order No. RO II-79-79 (renewal agreement). There is no evidence submitted to show that a valid assignment of the renewal agreement exists. HHS retained the payments owed under this contract because of its dissatisfaction with the equipment and service and its belief that LCS was no longer in business. HHS attempted to exercise its cancellation option with LCS beginning in November 1978, but it was not until February 1979 that HHS discovered that Centennial was the current owner of the equipment.

In April 1979, however, LCS sent HHS an invoice for \$4,887, representing the rental for October through December 1978, under the renewal agreement. LCS apparently accepted the validity of the HHS cancellation notice of November. The LCS invoice directed that payment be made to ASB as assignee for Centennial.

HHS has refused to pay the \$4,887 to ASB without proof of assignment of the renewal agreement by LCS to Centennial or ASB. Centennial and ASB have submitted a copy of the assignment of FPH-78-29 and HHS's acknowledgment of the assignment. In a letter to this Office, Centennial and

ASB agree to hold the Government harmless from any other claims against monies due and owing under either purchase order.

Centennial claims \$3,258 for the contract period of August and September 1978, \$4,887 for the contract period October through December 1978, and \$500 for an equipment removal charge. While HHS does not question the amounts owed, it requests our determination whether Centennial's claim to the money is valid.

Centennial claim of \$3,258

This claim is for rental proceeds from August and September 1978, under the initial purchase order FPH-78-29. LCS assigned the proceeds from this contract-purchase order on June 30, 1978, to ASB. Notice of this assignment was given to and acknowledged by the contracting officer in compliance with the Act. HHS does not dispute the fact that the contract was performed for those 2 months. Centennial claims that it has not received the payments from HHS. HHS states that payment to the party it contracted with, LCS, constitutes satisfaction of its obligation to Centennial.

Ordinarily, once the Government has received notice of a valid assignment and thereafter erroneously pays the assignor, it remains liable to the assignee for the amount of the erroneous payment. See Tuftco Corporation v. United States, 614 F.2d 740 (Ct. Cl. 1980); Central National Bank of Richmond, 91 F. Supp. 738 (Ct. Cl. 1950).

Here, HHS had notice of a valid assignment to ASB, but apparently paid the assignor, LCS, not the assignee. Therefore, once HHS verifies these facts, it should pay ASB the \$3,258 for the August and September 1978 rental. See Tuftco, supra, and Central National Bank, supra. HHS should take steps to recover the monies erroneously paid to LCS, if feasible.

Centennial's claim for \$5,387

Centennial also claims \$4,887 as the rental fee for October through December 1978 and a \$500 equipment removal fee under the renewal agreement. The problem concerning this claim is that a valid written assignment under the renewal agreement was not executed.

Although neither Centennial nor HHS has found a copy of an assignment for the renewal agreement acknowledged in writing by HHS in accordance with the Act, Centennial contends that it is entitled to this money nonetheless. It refers to a March 6, 1981, letter from HHS wherein HHS apparently recognizes Centennial's right to the rental from October through December as assignee in interest of LCS. (In an earlier letter, dated December 15, 1980, also cited by Centennial, HHS recognized that it owed "LCS or its rightful assignee" the monies, not referring specifically to Centennial's right as assignee to the money.) Centennial argues that since HHS recognized the assignment's existence, it is binding upon HHS, despite the fact that notice of the assignment was not given as required under the Act. Centennial cites Tuftco, supra, in support of its position.

In Tuftco, supra, the court held that, although an assignment did not comply with the requirements of the Act, the assignment was nevertheless binding on the Government where the Government was aware of, assented to and recognized the assignment. Here, in its March 6, 1981, letter, HHS, in effect, recognized the assignment of the renewal agreement. The LCS invoice of April 1979 sent to HHS, prepared after the original assignment, states that payment for October through December 1978, under the renewal agreement, should be made to ASB as assignee to Centennial. Centennial and ASB have offered to issue hold-harmless letters indemnifying the Government against any claims for the money claimed. In our view, the evidence substantiates Centennial's claim under the Tuftco decision. HHS should pay the claim upon receipt of the hold-harmless letters.

We authorize payment of Centennial's claim.

*for* Milton J. Fowler  
Comptroller General  
of the United States