



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Claim of Wackenhut Services, Inc., Z-2866560
File: B-240994
Date: October 15, 1990

DIGEST

An unratifiable claim by a private security company for reimbursement for temporary, emergency security guard services obtained without completion of proper procurement procedures may be paid by the United States Marshals Service under the principles of quantum meruit.

DECISION

The United States Marshals Service asked our Claims Group to consider the captioned claim for \$111,373.45 under the principles of quantum meruit. Since the claim exceeds \$25,000, Claims Group forwarded the claim to this Office consistent with B-112701, June 28, 1954, as amended by B-189738-O.M., Sept. 30, 1977. Payment of this claim by the Marshals Service is hereby approved as explained below.

BACKGROUND

According to the submission, in 1987 the United States Marshals Service informally solicited emergency security guard services from Wackenhut Services, Inc. (WSI). The need for those services arose suddenly after the government gained custody of and proceeded to try Carlos Enrique Lehder Rivas on drug-related charges. Because Mr. Lehder was believed to be highly placed within the Colombian drug cartel, the Marshals Service became concerned over the adequacy of existing security at the court offices where his case was to be heard. Consequently, the Marshals Service informally contacted a number of private security companies in order to immediately obtain, on a temporary, emergency basis, some additional, experienced, security guards.

The record indicates that, on or about February 5, 1987, several private firms (including WSI) were contacted by the Marshals Service over the telephone. At first, no firm was willing to undertake the task on such short notice--i.e., beginning at 6:00 p.m. that day. During the course of that day, WSI resisted several such entreaties from the Marshals Service. However, when advised of the importance of the task

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and the fact that no other company was willing to undertake it, WSI finally agreed orally to enter into a contract with the Marshals Service. WSI initiated its services that day and, according to the record, completed them in an "exemplary" fashion. However, formal contracting procedures were not properly completed by the Marshals Service. Consequently, although it admits the benefit received and accepts the reasonableness of the amount claimed, the Marshals Service is unable to "ratify" its arrangements with WSI. See B-197057-O.M., Aug. 22, 1980.

DISCUSSION

Having found that ratification is not possible, the Marshals Service submitted WSI's claim to GAO for consideration under the equitable principles of quantum meruit (which allow reimbursement for benefits received by the government where the claimant lacks an enforceable contract). E.g., 64 Comp. Gen. 727 (1985); 63 Comp. Gen. 579, 584 (1984). The criteria for payment under these principles include four elements: (1) There must be a threshold determination that the goods or services for which payment is sought would have been a permissible procurement, had the proper procedures been followed. (2) The government must have received and accepted a benefit. (3) The claimant must have acted in good faith. (4) The amount to be paid may not exceed the reasonable value of the benefit received. E.g., B-232357, Oct. 10, 1989.

Our review of the submission convinces us that all of these criteria have been satisfied in this case. (1) There is no question that the Marshals Service could have procured protective, security guard services from WSI, had it followed the proper procedures. Cf., e.g., 57 Comp. Gen. 524 (1978); 57 Comp. Gen. 480 (1978). (2) The Marshals Service acknowledges having received and accepted a benefit from WSI. (3) It seems clear that WSI acted in good faith. It was the government which sought this arrangement and repeatedly solicited WSI to provide the requested services despite its initial resistance. Thereafter, WSI performed the requested services in an exemplary fashion. (4) The Marshals Service determined that the amount claimed by WSI represents the reasonable value of the services provided.

CONCLUSION

Accordingly, the Marshals Service may pay the claim of Wackenhut Services, Inc., for \$111,373.45.

Milton J. Fowler

Acting Comptroller General
of the United States