

DECISION

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

60603

FILE: B-184712

DATE: March 3, 1976

98521

MATTER OF: Request for Advance Decision - Department of
the Army

DIGEST:

Claim for payment for typewriters allegedly delivered to Government for overseas shipment may not be paid because record fails to substantiate actual delivery of items to Government. Burden is on claimant to furnish evidence to substantiate delivery.

The United States Department of the Army has requested an advance decision from our Office regarding the propriety of payment for typewriters allegedly delivered to the Government.

The record shows that on January 16, 1973, the U.S. Army Procurement Directorate, Okinawa, issued delivery order No. ZK-12 to the International Business Machines Corporation (IBM) for the purchase of 15 selectric typewriters, model 71, and 30 extra typing elements under contract No. F64620-72-A-0026. They were to be delivered to the Headquarters and Headquarters Company, 1st Aviation Brigade, Vietnam, which was designated as the delivery and acceptance point. However, a completed Material Inspection and Receiving Report, DD-Form 250, evidence of delivery at destination, was never executed by the 1st Aviation Brigade.

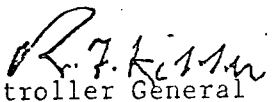
IBM contends that the typewriters were delivered to Travis Air Force Base for transshipment to Vietnam. It has submitted a copy of Consolidated Freightways Bill #81028651-4, Delivery Receipt copy, containing an illegible signature and dated March 2, 1973. It appears that the signatory's name is preceded by the written letters "SSg", an abbreviation for Staff Sergeant.

Even if this delivery receipt was signed by personnel at Travis AFB, it covers 50 undescribed pieces which we are unable to identify as the typewriters and typing elements in question. (The receipt also indicates that "split deliveries" were destined for delivery to other consignees at different locations.) While the instant purchase was for 15 typewriters

and 30 additional typing elements, the delivery receipt appears to cover a total of 50 pieces destined for Travis. No explanation is offered of this apparent inconsistency in the number of items allegedly delivered. In these circumstances, we are unable to conclude that the typewriters and typing elements for which payment is claimed were in fact received by the Government.

We have long adhered to the rule that the claimant bears the burden of proof to establish its claim. See 31 Comp. Gen. 340 (1952). The record here does not establish by satisfactory evidence the legal liability of the Government. In the absence of such evidence, we have no authority to certify this claim for payment. See Charles v. United States, 19 Ct. Cl. 316 (1884); Longwill v. United States, 17 Ct. Cl. 288 (1881).

The voucher submitted with the claim will be retained by this Office.


Deputy Comptroller General
of the United States