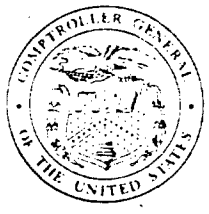


PRO. LAW I
J. Vickers



DECISION

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

8997

FILE: B-192541

DATE: January 30, 1979

MATTER OF: L. G. Black - E.C.C. -- Reconsideration

DLG 00768

DIGEST:

[Reconsideration of Claim For Carpet-Cleaning Services]

1. Where GSA contracting officer, in accordance with Federal Supply Schedule Disputes clause procedure, reverses determination of ordering activity's contracting officer denying claim, Claims Division is instructed to issue settlement in accordance with GSA contracting officer's decision.
2. Claim is not for payment on quantum meruit or quantum valebant basis where contracting officer authorized to issue purchase orders under Federal Supply Schedule contract has not explicitly or implicitly ratified unauthorized performance.

L. G. Black - E.C.C. (Black) has requested reconsideration of our decision of September 5, 1978 (B-192541, 78-2 CPD 173), in which we affirmed our Claims Division settlement relating to numerous invoices submitted by Black to various Federal agencies for carpet-cleaning services under General Services Administration (GSA) Federal Supply Schedule contract No. GS-03W-70217.

AGC00017

In our prior decision, we disallowed payment under invoice 7C352 of \$96 for downtime of the cleaning crew at Walter Reed Medical Center due to the conflicting statements of Black and the administrative agency. Black argues that GSA has approved the claim for payment.

On December 27, 1977, the contracting officer at Walter Reed denied Black's claim. The contracting officer at GSA subsequently considered the claim under the contract Disputes Clause and agreed with Black that it was entitled to payment. Our Office has now

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been furnished a decision of the GSA contracting officer, dated May 5, 1978, which manifests that agreement. Therefore, we have instructed our Claims Division today to issue settlement in accordance with the GSA decision of May 5, 1978.

AGC 00826
Black also contends that GSA approved payment of a group of invoices submitted to the Defense Supply Service (DSS), which DSS had not paid because the anti-static treatment for which Black was charging had not been authorized by persons with contracting authority and the treatment was not a schedule item in Black's contract. Following the DSS denial, and in response to a request from Black, the GSA contracting officer, by letter of December 19, 1977, advised DSS that, because of the confusion regarding clear direction to Black concerning the antistatic treatments, Black should be paid for those services performed prior to March 4, 1977, the date when DSS advised Black by letter that the treatments were not authorized.

Unlike the decision of May 5, 1978, the letter of December 19, 1977, from the GSA contracting officer was advisory only and not a decision under the contract Disputes clause since the claim did not arise under the contract. 41 C.F.R. § 101-42.102-3. Therefore, it had no binding effect.

Where goods or services are furnished to the Government without proper authorization, payment may be made on a quantum meruit or quantum valebant basis provided that the Government received a benefit and there was an explicit or implicit ratification by authorized Government contracting officials. Moore's Auto Body & Paint, Inc., B-189304, August 2, 1977, 77-2 CPD 72.

Here, while the Government received the benefit of the antistatic treatments, the contracting officer at DSS authorized to issue purchase orders for carpet services has not ratified the unauthorized performance. Therefore, the claim is not for payment.

We also noted in our prior decision that DSS stated that numerous invoices, which Black contended had not been paid, had been honored and DSS had forwarded to our Office copies of the signed receipts. Black has requested an opportunity to examine copies of the receipts. Therefore, we are forwarding Black copies of the receipts with this decision.

Concerning the nine vouchers for work performed at the Department of Justice, it has advised our Office that it is forwarding Black's invoices 71245A, 71245 and 7C547 to GSA for a decision under the Disputes clause of the contract and that the other six invoices have been forwarded to the Finance Office of Justice for payment.

R. F. Kellm.
Deputy Comptroller General
of the United States