

DECISION

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

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FILE: B-213489**DATE:** March 13, 1984**MATTER OF:** Sierra Vista Office Products, Inc.**DIGEST:**

Contractor who provided requested pad holders with silk screen printing to the government pursuant to an unauthorized oral request may be paid on a quantum valebant basis since the government received the benefit of the supplies. However, payment for the pad holders is limited to the amount for which they should have been purchased under a mandatory Federal Supply Schedule contract, plus a reasonable value for the silk screen printing.

The United States Department of Agriculture, Forest Service, requests our decision on whether Sierra Vista Office Products, Inc. is entitled to payment of \$375.53 for 54 pad holders with silk screen printing delivered to the Forest Service's Civil Rights Office. We believe payment should be made.

The record indicates that a staff member of the Civil Rights Office who did not have procurement authority orally contacted Sierra and placed an order for the pad holders. The pad holders subsequently were used at an office meeting. This purchase occurred after the agency's procurement officer had told the staff of the Civil Rights Office that oral purchase orders would not be ratified and, accordingly, he has refused to ratify this purchase. The Forest Service advises that the pad holders are listed on a mandatory Federal Supply Schedule (FSS), and that silk screen printing can be procured through the General Services Administration.

In appropriate circumstances, including when a contracting officer declines to ratify an informal or unauthorized commitment, payment may be made for services rendered on a quantum meruit basis (the

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reasonable value of work or labor) or for goods furnished on a quantum valebant basis (the reasonable value of goods sold or delivered). DeLoss Construction Company, B-196004, November 2, 1979, 80-1 CPD 201. Payment on either basis requires a showing that the government received a benefit, and is predicated on the theory that the government should not retain a benefit without paying for it. Burrelle's Press Clipping Service, B-209582, November 22, 1982, 82-2 CPD 469.

The Civil Rights Office obviously received a benefit from delivery of the requested pad holders. In this respect, the fact that there was a mandatory FSS contract for pad holders does not mean that the government should not pay for the benefit it received. See L. G. Black, Inc., B-199027, July 18, 1980, 80-2 CPD 47; Mathews Furniture Company, B-195123, July 11, 1979, 79-2 CPD 131.

Ordinarily, in a quantum valebant situation payment is the reasonable value of the goods delivered. In our view, however, where the items should have been purchased under a mandatory FSS contract, payment should not exceed the FSS amount. L. G. Black, Inc., supra. Therefore, Sierra should be paid the \$375.53, or the FSS price for the pad holders plus a reasonable value for the silk screen printing, whichever is less, on a quantum valebant basis.

Milton J. Fowler
for Comptroller General
of the United States