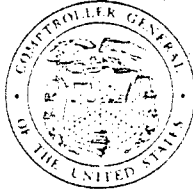


DECISION



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

60989  
97477

FILE: B-184481

DATE: August 19, 1975

MATTER OF: Architect - Engineer Services For Connecting  
Passageway, Project No. 671-003, Audie L.  
Murphy Memorial Veterans Hospital

DIGEST:

Where local hospital abandoned construction of an overhead passageway connecting it to a Veterans Administration hospital, as a result of which a cost-sharing contract was never executed, no basis exists for reimbursement by the Veterans Administration of design cost incurred by the local hospital. Quantum meruit and quantum valebat recovery also precluded since Government received no tangible benefit.

The Veterans Administration (VA) requests our advice as to whether it may pay the Bexar County Hospital District (Hospital District) one-half of a fee for architect-engineer services incurred by the Hospital District in preparation for the construction of an overhead passageway from the Audie L. Murphy Memorial Veterans Hospital to the Bexar County Hospital.

The file indicates that there was an intent that the Hospital District would construct the overhead passageway connecting the two hospitals and that the Veterans Administration would share the costs on a pro rated basis. This intent was manifested by a formal agreement which although apparently approved by both parties was never executed as a result of the unexpectedly deteriorating financial situation of the Hospital District which resulted from escalating construction estimates and inflation. On July 19, 1973, prior to its change in finances, the Hospital District had contracted with Phelps & Simmons & Associates and Bartlett Cocke & Associates (Associated Architects) to proceed with the plans and specifications for the intended passageway. The Veterans Administration was cognizant of the fact that the Hospital District had commissioned an Architect-Engineer firm although the VA neither participated in the selection of the firm nor was it aware of the type of contractual agreement entered into by the Hospital District and Associated Architects. The Hospital District has presented the Veterans Administration with a bill for \$7,046.41, representing 50 percent of the statement from Associated Architects for services rendered in connection with the connecting passageway


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The contracting officer feels that the Hospital District acted in good faith and that the Veterans Administration has an obligation to the Hospital District for payment of its portion of the design fee even though the financial circumstances of the Hospital District prohibited the realization of the intent of the agreement.

The design costs were incurred by the Hospital District in contemplation of a contractual agreement with the Veterans Administration. However, no formal contract was consummated because the Hospital District, for the reason stated above, abandoned the project. Under these circumstances, we do not see any obligation on the part of the Government to reimburse the Hospital District for costs incurred prior to the latter's determination not to proceed with construction of the passageway.

Furthermore, there is no basis for payment in this case on a quantum meruit or quantum valebat theory. Before a right to payment on such a basis may be recognized, it must be shown that the Government has received a benefit, and that the unauthorized action has been expressly or implicitly ratified by authorized contracting officials of the Government. B-166439, May 2, 1969. Although we assume without deciding that the Veterans Administration implicitly ratified the contract by working with the Hospital District's commissioned Architect-Engineer during the working drawing phase of this project, we find nothing in the file to indicate that the Government received and retained any tangible benefit from the Hospital District. See B-165817, May 2, 1969.

In view of the foregoing, we must advise the Veterans Administration that under the circumstances of this case, payment to the Hospital District would be improper.

  
Acting Comptroller General  
of the United States