



United States  
General Accounting Office  
Washington, D.C. 20548

Office of the General Counsel

B-251121.2

May 5, 1993

William T. Lane  
Vice President  
Stackig, Sanderson and White  
7680 Old Springhouse Road  
McLean, VA 22102-4350

Ref: Z-2868136

Dear Mr. Lane:

This responds to your request that we reconsider our earlier determination, in Z-2868136, that the Department of Energy (DOE) could pay \$59,206.36 of the \$74,478.26 Stackig claimed for advertising services rendered in response to an unauthorized commitment by a DOE employee. You asked that we authorize DOE to pay the remaining amount. As explained below, we are unable to authorize payment.

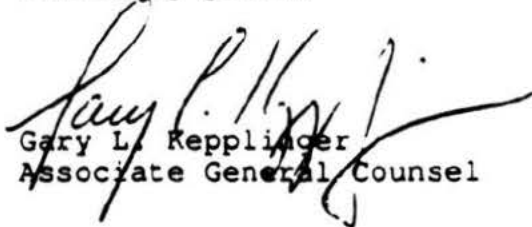
In your request, you argue that the calculations DOE made to arrive at the \$59,206.36 amount are incorrect. Specifically, you believe that DOE could not have gotten the advertising agency discounts Stackig received, and consequently DOE should pay Stackig the full cost of placing the ads, not subtracting the discounts. These discounts amount to \$10,326.02.

Whether DOE would have received the advertising discounts from the newspapers had the agency placed the advertisements itself is not relevant to determining the value of the services here. Even if DOE could not have obtained the discounts directly from the newspapers, other advertising agencies may well have passed the cost savings from the discounts on to DOE had the requirement been competitively procured.

With respect to your claim for \$5,220.92 for ad creation, production and related services, you have not provided us with any new information to substantiate the claim. See B-245117.2, June 19, 1992. Your submission only asserts that Stackig's billing practices are reasonable. Stackig's billing practices, in and of themselves, do not establish, as is required under the principles of quantum meruit/quantum valebant, that the amount claimed is the

reasonable value of the services. DOE placed a valuation of \$59,206.36 on the services it received and has not altered that valuation in light of the information you submitted. Since you have not furnished us with any evidence that this valuation is unreasonable we have no basis to alter our original determination that \$59,206.36 is the reasonable value of the services provided by Stackig.

Sincerely yours,



Gary L. Repplinger  
Associate General Counsel