

12343

DECISION



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

FILE: B-197007

DATE: December 19, 1979

MATTER OF: | Forest Service - Ratification of
Unauthorized Purchase

34

DIGEST:

[Entitlement to Payment for unauthorized purchase] of rock and gravel delivered to Forest Service project may be made on quantum valebat basis since Government received benefit of material and completed project and unauthorized action has been implicitly ratified.

2/ The United States Department of Agriculture, Forest Service requests our decision on whether Amearth Excavators of Buffalo, Wyoming (Ameath) is entitled to payment of \$1,620 for rock and gravel delivered to the Tensleep Ranger District, Webb Creek job site. D3508

On July 25, the District Ranger orally contacted Amearth and placed an order for the rock and gravel. This was done after the project coordinator checked other sources for this material and determined that Amearth was the only supplier with the capacity to haul the material over the distances involved and which could meet the Forest Service's needs. The District Ranger took this action because the project coordinator transferred to another district before the project work was initiated and because he felt an urgent need to have the material delivered for a Youth Conservation Corps project before the program ended on August 10, 1979. The District Ranger, however, lacked the procurement authority to make the purchase and no formal purchase order was issued.

Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute

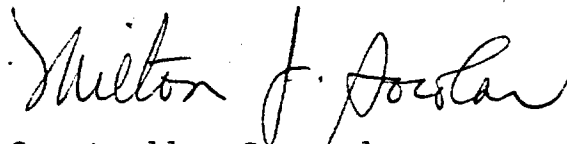
Contractor payments
Irregular procurement practices
Comptroller for
Procurement practices evaluation

~~CO8113~~
111129

or regulation, see United States v. Crance, 341 F. 2d 161, 166 (1965), the courts and our Office have recognized that in appropriate circumstances payment may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor) or for goods furnished on a quantum valebat basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). A right to payment on this basis, however, requires a showing (1) that the Government received a benefit and (2) that the unauthorized action has been expressly or impliedly ratified by authorized contracting officials of the Government. Defense Mapping Agency, B-183915, June 25, 1975, 75-2 CPD 15; The Singer Company, B-183878, June 20, 1975, 75-1 CPD 406.

The Forest Service reports that the rock and gravel were used to complete the project and thus the Government has received a benefit. Because of the hauling distance involved, the Forest Service believes that the price for the material is fair and reasonable and has recommended payment. An implied ratification may be inferred from the acceptance of the services and such favorable recommendation. Planned Communication Services, Inc., B-191476, May 31, 1978, 78-1 CPD 408.

Accordingly, we will allow payment on a quantum valebat basis for the amount claimed if otherwise correct.



For the Comptroller General
of the United States