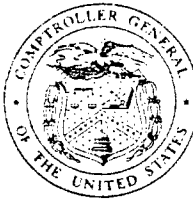


12820 H. Jarrett Proc I



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

DECISION

FILE: B-197568

DATE: February 12, 1980

MATTER OF: Dave Jarrett Construction DLG 03889

[Digest: Payment for work Done Outside of a Valid Contract]

Payment for lease of fully manned construction equipment not covered in formal contract may be made on quantum valebat/quantum meruit basis where Government received benefit and unauthorized extension of original contract has been implicitly ratified by activity making procurement.

Bozeman, MT DLG 03889 90

On September 1, 1978, the Gallatin National Forest (Forest), United States Forest Service, after requesting quotations from four parties, issued purchase order No. 846-11-78 to Dave Jarrett Construction for an estimated total 200-hour lease of various fully manned construction equipment. The estimated value of the purchase order was \$5,880. Because sufficient fiscal year funding could not be identified by the Forest at the time to cover all the work needed, the purchase order was limited to only a portion of the needed work. The remainder of the planned work was to be accomplished in a future fiscal year when and if appropriate funding was received.

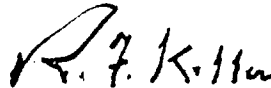
After the start of work, and without the knowledge of the contracting officer, additional funding became available and personnel supervising the performance of the contract merely told the contractor to complete all of the planned work--at the cost of \$12,544.50. Thus, a portion of the work was done outside of a valid contract. Further, had a contract for the entire amount been contemplated, since it would have been for an amount over \$10,000, the procurement would have had to have been formally advertised. Notwithstanding, a Forest Service authorized certifying officer recommends, on behalf of the activity, that the payment of \$12,544.50 be made to the contractor.

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Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, the courts and our Office have recognized that in appropriate circumstances payment may be made on a quantum meruit or quantum valebat basis where there is no formal contract upon which to base payment. Appropriate circumstances exist where the Government received a benefit from the goods and/or services and where the unauthorized action (procurement) has been expressly or impliedly ratified by authorized officials of the Government. Planned Communications Services, Inc., B-191476, May 31, 1978, 78-1 CPD 408.

The record shows that the Government benefited from the work done by the contractor. There appears to be no doubt that the amount charged for the work was reasonable. Finally, an implied ratification of the procurement may be inferred from the acceptance of the work and the recommendation on behalf of the activity that the amount of \$12,544.50 be paid.

Accordingly, the voucher may be certified for payment.



DEPUTY Comptroller General  
of the United States