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DECISION



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

FILE: B-203676

DATE: September 21, 1981

MATTER OF: Contract Retainage

DIGEST:

Where the corporation due money under a Government contract no longer exists, and any potential claimants to the money are unknown, Government should close its file on contract and deobligate the funds and handle in accordance with 31 U.S.C. § 706 (1980).

Our decision has been requested by the Chief, Finance and Accounting Division, Office of the Chief of Engineers, in connection with the processing of \$100 in retainage withheld by the Department of the Army from a dredging company which is no longer in existence.

The \$100 was withheld from Government payments under New England Division, Corps of Engineers (Corps), contract No. DACW33-68-C-0132 for maintenance dredging in Green Harbor, Marshfield, Massachusetts. The contract was performed by Sea-Land Dredging Corporation (Sea-Land). The contractor submitted four claims for additional compensation relating to the work performed under this contract that were denied by the contracting officer. Sea-Land subsequently appealed to the Corps of Engineers Board of Contract Appeals (Board) in 1970. The Board denied Sea-Land's four claims on June 28, 1974.

The Corps retained the \$100 undisputedly due to Sea-Land in order to keep its file open. Since the 6-year statutory period for appeal by Sea-Land to Federal court has now elapsed, the Corps has proceeded to a final accounting.

A final pay estimate was prepared, showing that the Government owed a balance on the contract of \$100. The Corps sent a copy of the final pay estimate for signature to Sea-Land's attorney who had represented Sea-Land in the Board proceeding and who was listed

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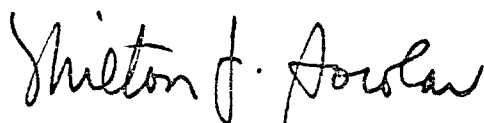
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in the Corps' records as the president of Sea-Land. The attorney advised the Corps that Sea-Land was dissolved and that he had no authority to sign the final pay estimate. The Corps confirmed with the New York State Department of Corporations that Sea-Land, which was originally incorporated in New York State, was dissolved.

The Corps asks that we advise it as to the proper disposition of the \$100.

Initially, we note that no claim has been filed for this money. Although the record clearly indicates that Sea-Land is due the money, the company has been dissolved. Upon dissolution of a corporation, the assets of a corporation generally are regarded as a trust for payment of its creditors and then its stockholders. 19 Am. Jur. 2d., Corporations §§ 1659, 1692. However, here, there is no evidence that there are unpaid creditors who might be entitled to the amount in preference to its stockholders, or who the stockholders are. See SS Denny, B-127545, August 6, 1957.

Under these circumstances, in the absence of any claimants, the Corps should close its file on this contract. It should deobligate the appropriation charged in the amount of \$100. Thereafter, the appropriation should be handled in accordance with 31 U.S.C. § 706 (1980).



Acting Comptroller General
of the United States