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DECISION



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

FILE: B-207639

DATE: November 19, 1982

MATTER OF: American Technical Assistance
Corporation

DIGEST:

Claim for reimbursement of increased contract costs resulting from delayed negotiation of final overhead rates after contract completion is not barred by the statute of limitations since it was received by GAO within 6 years of time final overhead rates were incorporated into contract by amendments at which time the claims first accrued.

The Agency for International Development (AID) has forwarded a claim to our Office for \$10,677.12 which it received from American Technical Assistance Corporation (ATAC). There is no dispute as to the validity of the claim but AID believes it might be barred by 31 U.S.C. § 3702 (formerly section 71a) which imposes a 6-year statute of limitations on claims against the United States. For the reasons discussed below, we hold that the claim is a valid obligation of the United States which is not barred by the statute of limitations.

The claim arose under contract No. AID/csd-2978, a cost reimbursement contract for technical services executed June 30, 1971. Performance was completed on January 15, 1973. The contract provided that pending establishment of final overhead rates, the contractor would be reimbursed at negotiated provisional rates or at billing rates acceptable to the contracting officer subject to appropriate adjustment when the final rates were established. On November 4, 1976, the contract was amended to specify the agreed final overhead rates for the period ending on June 30, 1972; the contract was further amended on September 19, 1980 to reflect the final overhead rates that were negotiated for the last performance period.

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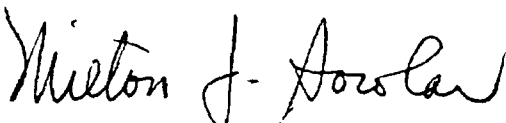
Using the overhead rates established in 1976 and 1980, ATAC submitted a "final" voucher dated March 23, 1981 (No. 22) in the amount of \$10,677.12 which reflected the final overhead costs.

The applicable statute of limitations is found in 31 U.S.C. § 3702(b)(1). This section provides in part that every claim against the United States which is cognizable by the Comptroller General under 31 U.S.C. § 3702 be received in GAO within 6-years after the date the claim accrues in order to be considered. The claim was received by GAO on May 18, 1982.

The general rule is that a claim first accrues on the date when all events have occurred which fix the liability, if any, of the United States and entitles the claimant to sue or to file a claim. Empire Institute of Tailoring Inc. v. United States, 161 F. Supp. 409 (Ct. Cl. 1958). Where the claim is based on a contractual obligation of the Government to pay money, the claim first accrues on the date when payment becomes due. See Oberfinanzdirektion Stuttgart, B-203624, July 7, 1982.

The Oberfinanzdirektion case recognized that the running of a statute of limitations is delayed where a right, to be either actionable or ripe for a claim, is dependent on the occurrence of an event or contingency, so that the right does not accrue until the event or contingency occurs.

ATAC's claims were received in our Office on May 18, 1982. Under the terms of the contract, its claim for increased overhead costs did not accrue until the contract was amended on November 4, 1976 and September 19, 1980. Until then ATAC had no right to claim any additional overhead cost; that is, the claim was not ripe until the final overhead rates were negotiated and the contract amended. Until that time its claim could not have been paid. As ATAC's claim was received by GAO within 6-years from the time the claim accrued, it is not barred by the statute of limitations imposed by 31 U.S.C. § 3702(b)(1).

for 
Comptroller General
of the United States