

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D.C. 20541

25824

FILE: B-209965

DATE: July 26, 1983

MATTER OF: Sadie G. Crawford

DIGEST:

Claim for reimbursement of personal funds used to pay for repair of telephone answering system may be paid. Since the procurement of the repair services was authorized by superiors it would be unfair for the Government to retain the advantages of the services without repaying claimant.

The Accounting and Finance Officer, Defense Logistics Agency (DLA), Department of Defense, has requested an advance decision on whether he may certify for payment the claim of Sadie G. Crawford, Supply Management Representative, Wright-Patterson AFB, Ohio. The claim represents a \$69.24 payment by Ms. Crawford from her personal funds for repair of a telephone answering system that she used in her assignment. The claim may be paid for the reasons given below.

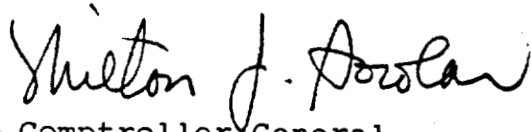
The DLA telephone answering system in question, although new, was out of warranty and inoperable. Claimant requested and received authority from the DLA Operations Office to have the system repaired. This authority did not give her authority to enter into a contract, however, according to the submissions to this Office. It appears that the claimant, a new employee, was not advised that all charges were to be submitted through channels and consequently paid for the repairs out of her personal funds.

In our recent decision 62 Comp. Gen. ___, B-206236, June 1, 1983, we said that where a Government employee uses personal funds to procure goods or services for official use he or she may be reimbursed if the underlying expenditure itself is authorized, failure to act would have resulted in disruption of the relevant program or activity and therefore satisfies the test of "public necessity," and the transaction satisfies criteria for either ratification of the procurement or quantum meruit if the contractor had not yet been paid by the employee. That case also explained that a lesser standard of public necessity may be applied when the employee was directed to take the action at issue by a superior.

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We are not dealing here with a situation covered precisely by B-206236, supra. Even though no authorized contracting officer entered into the contract, the employee had obtained approval from the Defense Logistics Agency Directorate of Supply Operations (DLA-O) to secure the repairs prior to obtaining the services. As the transaction is described in a July 8, 1982 DLA memorandum, that office had apparently established a pattern of securing repairs by having employees request services and submit bills for payment through channels. The bill apparently ordinarily would have been paid on the basis of an "after-the-fact procurement determination." In other words, it would have been routinely ratified. Ms. Crawford's failure in this process was not that she solicited the service without authority, but that she paid for it. Further, there is no indication that the amount paid for the repairs, \$69.24, was not reasonable, and the request from DLA recommends payment.

As DLA points out, ratification in the instant case is not authorized because the contractor has already been paid. Moreover, voluntary creditors act at their own risk and do not acquire legal claims against the Government. Nevertheless, this situation fits comfortably within the criteria set forth in B-206236, supra, for equitable relief for the employee. As mentioned above, there is little doubt that DLA could and would have ratified the transaction had Ms. Crawford not made the payment prematurely. In such circumstances, we hold that Ms. Crawford may be reimbursed the amount she mistakenly paid the repairman.

for 
Comptroller General
of the United States