



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Department of the Interior--Reimbursement of
Dr. Arthur McGarr, Geological Survey Employee

File: B-226581

Date: February 18, 1988

DIGEST

Geological Survey employee may be reimbursed \$15,136 for personal expenditures made for services and equipment in support of an Economy Act agreement project in South Africa, provided that the agency involved finds that the expenditures were made in furtherance of a public necessity.

DECISION

A certifying officer of the Department of the Interior, United States Geological Survey (USGS), asks whether he can reimburse Dr. Arthur McGarr, a Geological Survey employee, the sum of \$15,136.^{1/} This is the amount Dr. McGarr claims he spent from his personal funds to finance a USGS project in South Africa. For the reasons given below, we find that Dr. McGarr may be reimbursed the \$15,136 so long as the USGS finds that the expenditures were made in furtherance of a public necessity.

FACTS

On October 7, 1985, the USGS entered into a reimbursable agreement with the Air Force Technical Applications Center (AFTAC) under the Economy Act, 31 U.S.C. § 1535. Under the terms of the agreement, the USGS was to acquire and analyze seismic data from the four major mining districts of the Republic of South Africa from October 1, 1985 through September 30, 1987. The estimated cost of the project was \$600,100; \$282,000 from fiscal year 1986 funds and \$318,100 from fiscal year 1987 funds. These costs were to be reimbursed to the USGS by AFTAC.

In March 1986, Dr. McGarr traveled to South Africa to install the seismic equipment to be used for the project, and arrange for the packaging and shipping of seismic data

^{1/} The original amount was \$9,902; however, this amount subsequently was increased to \$15,136 at the request both of the Geological Survey and the claimant.

041310

and for on-site maintenance and repair of seismic equipment. Dr. McGarr also asked Dr. R.W.E. Green^{2/} of the University of Witwatersrand and several staff members of the South African Geological Survey to provide project support on a reimbursable basis, since no USGS staff would be available in South Africa. There were no formal agreements between the USGS and the South African participants in the project.^{3/} The USGS informs us that Dr. McGarr used his own funds on the March trip, and was reimbursed upon his return by the USGS without question or objection.^{4/}

Dr. McGarr arranged to use the Seismic Equipment Reserve Fund, an account of the University of Witwatersrand, to finance project costs. Dr. McGarr selected the Reserve Fund as the financing mechanism because it was free of service charges and provided considerable overdraft privileges. The fund was to be administered by Dr. Green. As we understand it, USGS officials and Dr. McGarr did not discuss how to fund the project before Dr. McGarr left for South Africa. It appears that Dr. McGarr attempted to use the United States Embassy as a depository for project funds, but the Embassy declined to accept them.

Dr. McGarr visited South Africa again, from November 2, 1986 to November 26, 1986, to perform seismic station maintenance and to acquire and analyze mining industry data. During this period, he made two payments from his personal funds. He deposited \$12,936 into the Seismic Equipment Reserve Fund and paid \$2,200 directly to Dr. Green for consulting fees. The total payments amounted to \$15,136.

The \$12,936 was used for purchase of three seismic recording systems, special metal boxes and lids, operation of seismic stations, transportation costs for transfer of seismic data from South Africa to California, interval measurements, siliconix, magnetic tapes, lightning protector boards, and salaries and travel expenses for several individuals. The consulting fees for Dr. Green were for 100 hours of project

^{2/} The facts indicate that Dr. Green was a friend and former colleague of Dr. McGarr.

^{3/} Dr. McGarr claims that the arrangements with staff of the South African Geological Survey were prohibited by regulation of that organization; thus, formal agreements were not advisable.

^{4/} The USGS did not submit the propriety of that reimbursement to the GAO.

equipment maintenance and repair. Dr. McGarr suggests that the \$2,200 was minimal compensation for Dr. Green's work.

Dr. McGarr assumed that use of his own funds on project expenditures was permissible as emergency payments while in travel status. He informed us that the principal reason for his viewing the situation as an emergency was because certain aspects of the project were classified. Although the Economy Act agreement between the USGS and AFTAC states that the project is unclassified, government officials with whom we spoke assured us that the project was classified. They also have informed us that Dr. McGarr was told the project work should be expedited.

Dr. McGarr's supervisor supports Dr. McGarr's assertion that fund expenditures represented legitimate project expenses. The USGS' Financial Management Branch, which submitted the matter to us, agrees with this finding.

DISCUSSION

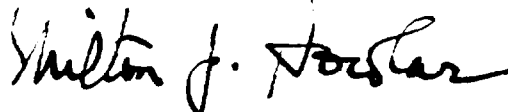
A person who, on his or her own initiative, uses personal funds to pay what he or she perceives to be an obligation of the government, is called a "voluntary creditor." As a general rule, such personal expenditures do not automatically create a valid claim against the government and may not be reimbursed with appropriated funds. 62 Comp. Gen. 419 (1983). Nevertheless, the voluntary creditor rule permits reimbursement to a government employee if personal expenditures are made in furtherance of a "public necessity," and the expenditures are for urgently needed goods or services that the agency could properly have procured had time permitted. In this instance, it appears that expenditures were for goods and services that the agency could properly have procured had time permitted. The USGS itself has stated that Dr. McGarr's expenditures represented legitimate project expenses. The issue here really is whether Dr. McGarr's expenditures were in furtherance of a public necessity.

Whether a situation is a public necessity depends on the extent to which the project involved would have been disrupted had the voluntary creditor not taken prompt action. Id. at 421-22. A factor to consider in determining whether an expenditure is for a public necessity is the extent to which the voluntary creditor acted independently or was induced or directed to act by a superior. To the extent the voluntary creditor acted by direction, a somewhat lesser standard of public necessity can be applied. Id. at 424.

Consistent with these guidelines, we have allowed reimbursement to (1) a National Guard officer for use of personal monies to buy food for subordinates during a weekend training exercise when requisite paperwork was not completed in time to follow normal purchasing procedures, *id.* at 425, and (2) an Air Force sergeant in Italy who had purchased communications equipment that could not otherwise have been obtained quickly enough to avoid mission impairment. B-195002, May 27, 1980.

In the present case, there are several factors that favor reimbursement from an equitable point of view. First, the facts suggest that the government did receive and accept the benefits of the goods and services procured by Dr. McGarr, Dr. McGarr's expenditures of his own funds were in good faith, and the amounts paid for these services appear reasonable. Second, Dr. McGarr may have assumed that he could spend his own funds since he had been reimbursed without question for use of his own money for work during the first segment of the project. Nevertheless, a final decision on the merits should turn on the issue of whether a public necessity required the voluntary expenditures.

As we have previously noted, there are classified aspects of Dr. McGarr's project. Although we have informally received some material on these aspects, we do not have a sufficiently detailed description to render a conclusion on the issue of public necessity. At this point we think the most practical way of handling this case is to return it to the USGS for a finding on the public necessity issue. If in exercising its administrative discretion the USGS does find that a public necessity did exist, we would have no objection to it reimbursing Dr. McGarr for the \$15,136 he spent. The case need not be resubmitted to us.



Comptroller General
of the United States