



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: JDS Funding Group, Inc.

File: B-234103

Date: August 24, 1989

DIGEST

Payment should not be made to purported assignee of payments due under an Army purchase order where there was no valid assignment of the right to payment under the purchase order. Notations on the purchase order listing the purported assignee as the proper addressee for payment cannot substitute for a valid assignment satisfying the requirements of the Assignment of Claims Act. Those requirements must be strictly construed to accomplish the purposes of the Act of preventing multiple claims on the government and of making unnecessary the investigation of alleged assignments.

DECISION

This is in response to a request from C. R. Hack, Finance and Accounting Officer at the Army's Watervliet Arsenal, Watervliet, New York, for an opinion concerning a claim by JDS Funding Group, Inc., for \$4,259.35 as the purported assignee of Operating Scientist, Inc., under contract number DAAA22-88-M-0124. For the reasons set forth below, we conclude that the claim should not be paid.

FACTS

The Army issued the purchase order for certain electronic equipment on May 24, 1988. The listed contractor was Operating Scientist, Inc. The completed purchase order, however, included the following notation:

**"NOTE: PAYMENT ADDRESS: JDS Funding Group, Inc.
226 North Franklin Street
Hempstead, N.Y. 11550".**

Operating Scientist apparently completed deliveries under the purchase order and presented the Army with an invoice

for \$4,493.10. That invoice listed the same payment address as that included on the purchase order.

Notwithstanding the notations on the purchase order and the invoice, a partial payment under the purchase order was made to Operating Scientist in the amount of \$4,259.35 on August 29, 1988. A final payment was made to JDS Funding Group in the amount of \$233.75 on September 15, 1988.

Efforts by the Army to recover the amount paid to Operating Scientist or to induce Operating Scientist to remit that amount to JDS Funding Group have been unsuccessful. JDS Funding Group seeks payment from the Army of \$4,259.35, the amount of the partial payment made to Operating Scientist.

ANALYSIS

The transfer of any interest in a government contract from the contractor to another party generally is prohibited, except where the transferred interest consists of an assignment of money due under the contract and the assignment is carried out in accordance with statutory requirements. B-225051, Feb. 19, 1988. The Assignment of Claims Act, 31 U.S.C. § 3727 (1982), 41 U.S.C. § 15, sets forth detailed requirements for a proper assignment of contract proceeds.

We conclude that the claim of JDS Funding Group may not be paid because there was not a valid assignment of the contract proceeds to JDS Funding Group by Operating Scientist within the contemplation of the Assignment of Claims Act. JDS Funding Group apparently contends that the purchase order, including the address notation described above, constituted a valid assignment of the contract proceeds.^{1/} We do not agree. The purchase order was prepared by the Army and was executed by neither Operating Scientist nor JDS. It includes no recitation of assignment. In addition, none of the formalities required by the Assignment of Claims Act and implementing provisions in the Federal Acquisition Regulation was met. The Act, for example, clearly contemplates an assignment instrument separate from the contract or purchase order itself, and requires delivery of that instrument to various parties. 31 U.S.C. § 3727(c)(3). The Federal Acquisition Regulation

^{1/} In response to the Army's request for a copy of the assignment instrument on which its claim is based, JDS Funding Group provided a copy of the purchase order including the notations described above.

requires that assignment instruments be (1) executed by appropriate corporate executives, (2) attested by the secretary or assistant secretary of the corporation, and (3) impressed with the corporate seal or accompanied by a certified copy of a corporate authorization for the assignment. 48 C.F.R. § 32.805(a). See 22 Comp. Gen. 161, 164-65 (1942); 60 Comp. Gen. 678 (1981). None of those requirements has been satisfied here.

The requirements of the Assignment of Claims Act must be strictly construed to accomplish the purposes of the Act of preventing multiple claims on the government and of making unnecessary the investigation of alleged assignments. American Financial Associates, Ltd., 5 Cl. Ct. 761, 768 (1984), aff'd, 755 F.2d 912 (Fed. Cir. 1985). The claim of JDS Funding Group is precisely the sort of claim the Assignment of Claims Act was enacted to prevent.

Accordingly, we conclude that the claim of JDS Funding Group in the amount of \$4,259.35 should not be paid.



Acting Comptroller General
of the United States