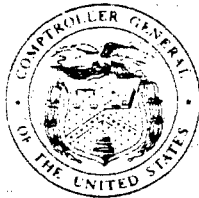


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DECISION



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

FILE: B-200095

DATE: October 8, 1980

MATTER OF: Bureau of Land Management - Mobile Home
Purchased - Unauthorized

DIGEST:

(ALLEGED)
Notwithstanding agency's failure to comply with procurement regulations, amount due as final payment for mobile home may be paid on a quantum valebant basis since Government received benefit and price is considered reasonable, if an authorized contracting official of Government recommends that payment be made.

DIG 05320

The Bureau of Land Management (BLM), United States Department of the Interior, has requested our decision regarding the propriety of paying Hi-Sierra Mobile Home Sales (Hi-Sierra) an amount owing for the purchase of a mobile home.

During January and July 1979, a fire control officer of the Bakersfield, California District of BLM solicited quotations for the lease/purchase of a mobile home from three local vendors. The quotations were solicited orally, without issuance of a formal solicitation document or written specifications. The officer awarded the contract to Hi-Sierra in August 1979. Since the delegation of procurement authority to BLM district offices is limited to a small purchase maximum of \$10,000, the requirement was split to erroneously show the procurement of two 12' x 60' trailers, rather than the single 24' x 60' unit actually purchased.

In 1979, BLM made payments on two purchase orders, each in the amount of \$7,500. After it discovered the improprieties described above, BLM withheld payment of the third and final purchase order which was for \$6,868. BLM found that the legal improprieties in the procurement were such that ratification of the contract award pursuant to Federal Procurement Regulations (FPR) § 1-1.405 was inappropriate.

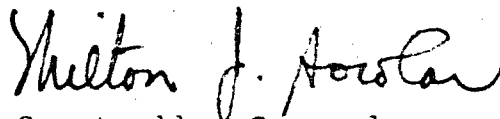
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Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, see United States v. Crance, 341 F.2d 161, 166 (8th Cir., 1965), the courts and our Office have recognized that in appropriate circumstances payment may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor), or for goods furnished on a quantum valebant basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). Recognition of a right to payment on this basis, however, requires a showing (1) that the Government received a benefit and (2) that the unauthorized action has been expressly or impliedly ratified by authorized contracting officials of the Government. Defense Mapping Agency, B-183915, June 25, 1975, 75-2 CPD 15; The Singer Company, B-183878, June 20, 1975, 75-1 CPD 406.

The record indicates that the Government has accepted the trailer and received a benefit and that the purchase price is considered to be reasonable. If payment is recommended by an authorized contracting official, an implied ratification may be inferred. Planned Communication Services, Inc., B-191476, May 31, 1978, 78-1 CPD 408. The fact that ratification of the contract award pursuant to FPR § 1-1.405 was apparently impermissible due to legal improprieties in the procurement is no bar to quantum valebant relief. DeLoss Construction Company, B-196004, November 2, 1979, 80-1 CPD 201.

There is mention in the record that trailers similar to the trailer purchased by BLM are "included on GSA schedules." We note that although ordinarily payment on a quantum valebant basis is for the reasonable value of the goods delivered, where the agency is required to purchase the item under a supply schedule contract, quantum valebant payment may not exceed the schedule amount. Mathews Furniture Co., B-195123, July 11, 1979, 79-2 CPD 131; L.G. Black, B-199027, July 18, 1980, 80-2 CPD 47.

With this qualification, payment on a quantum valebant basis for \$6,868, may be allowed, if otherwise proper and correct, and if payment is recommended by an official with the requisite contracting authority.



For the Comptroller General
of the United States