

**DECISION**

25728  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:** B-210334**DATE:** July 14, 1983**MATTER OF:** Carroll-Donahue Associates**DIGEST:**

Civilian Personnel Officer at the U.S. Army Reserve Component Personnel and Administrative Center rather than the Contracting Officer procured training by a non-Government facility. Where the Center accepted the training services and received a benefit therefrom, payment may be made on the basis of quantum meruit provided that an authorized contracting official recommends payment.

This is in response to a request for an advance decision by Major J. M. Vaughn, Finance and Accounting Officer at the U.S. Army Reserve Component Personnel and Administrative Center, St. Louis, Missouri, as to whether payment in the amount of \$890 may be made to Carroll-Donahue Associates (Carroll-Donahue) for a training course which it had conducted at the Center. The training course, at a cost of \$890, was approved by the Civilian Personnel Officer at the Center by DD Form 1556, Request, Authorization, Agreement, Certification of Training and Reimbursement, dated July 20, 1982. The course on labor relations for Federal supervisors and managers was conducted at the Center on July 19 and 20, 1982.

The Finance and Accounting Officer has denied payment to Carroll-Donahue since he believes that the agreement between the agency and Carroll-Donahue for the training in question is of doubtful validity. The basis for this view is that the training was authorized by the Civilian Personnel Officer and not by a contracting officer in accordance with regular contract procedures.

Although the regular procurement procedures should have been followed to obtain the training course, payment to Carroll-Donahue may be made on the basis of quantum meruit provided that an authorized contracting official recommends payment.

By DD Form 1556, Request, Authorization, Agreement, Certification of Training and Reimbursement, dated July 20,

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1982, the Center's Civilian Personnel Officer approved, at a cost of \$890, a training course in labor relations which was conducted at the Center on July 19 and 20, 1982, by Carroll-Donahue. The Civilian Personnel Officer approved the training course rather than submitting the matter to a contracting officer for consideration under the regular contract procedure since he believed that the approval of such training constituted an exception to the procurement process. The Civilian Personnel Officer's understanding of his authority to approve training by a non-Government facility was based on the instructions contained in the Appendix to CPR 400, Chapter 410, of the Department of the Army's Civilian Personnel Regulations entitled "Instruction for using DD Form 1556, Request, Authorization, Agreement, Certification of Training and Reimbursement," as added by CPR 400, Interim Change No. 102, April 3, 1980. Interim change 102 was incorporated with minor changes, on April 1, 1982, as Section 9-33 of Army Regulation (AR) 37-107.

With regard to the authorization of training in or by non-Government facilities paragraph b of Section 9-33 provides:

"(1) Special Training By Contract.

When a training course or program is developed by a non-Government source to meet a specific requirement, it is the function of an authorized Contracting Officer to contract for the training on behalf of and as required by the responsible Employee Development Specialist. In such cases, the Commander must follow procedures set forth in the Defense Acquisition Regulation (DAR), including the use of approved forms. This precludes using DD Form 1556 as a contracting document for training under these conditions; however, DD Form 1556 must be completed to request and approve training for each individual to be trained (the DD Form 1556 serves as a backup document to the contracting documents).

"(2) Normal (Noncontractual) Training Authority. Training may be authorized and certification for reimbursement accomplished

by an appropriate training official using DD Form 1556 when the training is regularly scheduled, open to the general public (for non-Government training) and the price of tuition, books, and fees does not exceed that charged all accepted students. Even though a dollar limitation is not established under these reimbursement conditions, the individual responsible for the training and development function should consult with the appropriate contracting officer and follow regular contract procedures when the price exceeds \$10,000. Training which costs less than \$10,000 does not have to be submitted to a Contracting Officer.

"(3) Payment for Training at Non-Government Facilities. When training is properly authorized by an appropriate training or other management official and does not involve a contracting function outlined in (1) above, DD Form 1556 may be used for certification for payment of approved costs incurred in training at non-Government facilities. Such certification does not involve a contracting function. Standard Form 1034 (Public Voucher for Purchases and Services Other than Personal) will be used as a payment voucher."

Since there is no indication in the record to the contrary we will presume that the Center's Civilian Personnel Officer is a management official authorized to approve training under paragraph b(2) of Section 9-33 of AR 37-107.

By memorandum dated August 10, 1982, to the Acting Comptroller, the Finance and Accounting Officer advised that in his opinion the training course in question did not meet the criteria for an exception to the contracting procedures, now set forth at paragraph b(2) of Section 9-33, AR 37-107 for training which is "regularly scheduled" and "open to the general public." The Finance and Accounting Officer stated in pertinent part that he viewed the term "regularly scheduled" as meaning that the training is offered at recurring,

known, and fixed intervals, and "open to the general public" as meaning that it is open to all persons without restriction. He further expressed the view that the exception to contracting for training was intended to facilitate the attendance of Government employees at non-Government education or training offered to the general public at an announced date, time, and location by professional associations, groups, colleges, universities, or consultants.

In response to the views of the Finance and Accounting Officer, the Civilian Personnel Officer by memorandum dated September 30, 1982, to the Acting Comptroller, stated that he had properly authorized the training conducted by Carroll-Donahue. He stated that the training course presented entitled "Labor Relations for Federal Supervisors and Managers" was a standard "off-the-shelf" course which Carroll-Donahue presented on a regular basis upon request and is listed in their published curriculum of course offerings. Thus, he concluded that the provisions now set forth as paragraph b(1) of Section 9-33, AR 37-107, wherein it provides that a Contracting Officer must contract for training where a training course or program is developed to meet a specific requirement was inapplicable to this training. Furthermore, he stated that the training course met the criteria now set forth at paragraph b(2) of Section 9-33, of AR 37-107, so as to permit approval and reimbursement for such training outside of the contract process. He noted that the cost of the course was under \$10,000 and that the \$890 fee was equal to or less than the price advertised by Carroll-Donahue as their normal fee. He advised that Carroll-Donahue does not operate a centralized training facility but provides instructional services and course materials only, with the requesting organization providing the classroom facilities. He stated that since the training course in question was an established course and available to the general public upon request, he believed that it met the criteria of training which is "regularly scheduled" and "open to the general public (for non-government training)."

We do not believe the training course made available by Carroll-Donahue should be treated as within the purview of Section 9-33b(2), above. As we interpret that exception it applies to situations such as courses offered at a fixed price at an announced date, time and location by colleges, universities, professional associations, or groups

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which are open to the general public. Therefore, regular procurement procedures should have been followed to obtain the Carroll-Donahue course. To hold otherwise would suggest that all off-the-shelf training or educational courses could be obtained by Federal agencies from private firms outside the formal procurement process.

Although no formally executed contract existed between the Army and Carroll-Donahue, in appropriate circumstances, we have recommended that payment may be made for the reasonable value of services furnished to the Government without proper authorization on a quantum meruit basis. 40 Comp. Gen. 447, 451 (1961). Recognition of a right to payment on this basis requires a showing that the Government received a benefit and 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 Center accepted the training services and received a benefit therefrom 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. Action, B-202744, May 4, 1981, 81-1 CPD 339; Planning Communication Services, Inc., B-191476, May 31, 1978, 78-1 CPD 408.

Thus, if payment for the training course by Carroll-Donahue is recommended by an authorized contracting official, payment on a quantum meruit basis in the amount of \$890 may be allowed, if otherwise proper.

The Department of the Army may wish to consider amending Section 9-33 of AR 37-107 so that it will more clearly set out the intended scope of authority for approval of training by use of DD Form 1556.

*for* Larry R. Chan Cleave  
Comptroller General  
of the United States